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COMMISSION ON HUMAN RIGHTS
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Fifty-third session
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Note by the High Commissioner for Human Rights transmitting the report of the International Commission of Inquiry for Togo

GE.01-11525 (E)

1. At its fifty-sixth session, the attention of the Commission on Human Rights was drawn, under agenda item 9, to the statement delivered on 20 August 1999 by the Chairperson of the fifty-first session of the Sub-Commission on the Promotion and Protection of Human Rights concerning the situation of human rights in Togo. To give effect to that statement, the International Commission of Inquiry for Togo was established on 7 June 2000, under the auspices of the United Nations and the Organization of African Unity, at the request of the Government of Togo. It should be recalled that, at the Sub-Commission's request, a note by the Secretary-General (E/CN.4/Sub.2/2000/8) on the establishment of the International Commission of Inquiry for Togo was circulated at its fifty-second session, under the agenda item relating to the question of the violation of human rights and fundamental freedoms in all countries.

2. On 26 December 2000, the International Commission of Inquiry transmitted its report to the Secretary-General of the United Nations and the Secretary-General of the Organization of African Unity. Referring to paragraphs 74 and 75 of the report, the two Secretaries-General requested the High Commissioner to bring the report to the attention of the Commission on Human Rights at its fifty-seventh session. The Secretaries-General requested that the comments of the Government of Togo and Amnesty International concerning the report should also be made available to the Commission on Human Rights (see addenda 1 and 2 to this document).

Preliminary distribution

REPORT OF THE INTERNATIONAL COMMISSION OF INQUIRY FOR TOGO

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 11	5
A.	Mandate	1	5
B.	Composition	2	5
C.	Methods of work	3 - 5	5
D.	Meetings of the Commission in Geneva	6 - 9	6
E.	Mission to Togo and neighbouring countries	10 - 11	6
II.	CONTEXT	12 - 26	7
A.	Allegations contained in the Amnesty International report	13	7
B.	Reactions of the Government of Togo	14 - 17	7
C.	Sub-Commission on the Promotion and Protection of Human Rights	18	8
D.	Joint action by the United Nations and the Organization of African Unity	19 - 20	9
E.	Difficulties encountered by the Commission before its departure for the field	21 - 26	9
III.	FIELD MISSION	27 - 41	11
A.	Information sources	28 - 35	11
1.	Documentary sources	29 - 31	11
2.	On-site visits	32 - 34	12
3.	Testimony	35	13
B.	Attempts to bribe witnesses in Benin	36 - 41	13
1.	Testimony of district heads and other Beninese nationals to the Togolese press	37 - 38	13
2.	The media	39	14
3.	The fishermen	40 - 41	14

CONTENTS (continued)

		Paragraphs	Page
IV.	ALLEGATIONS OF EXTRAJUDICIAL EXECUTIONS IN 1998	42 - 61	15
	A. Allegations concerning the discovery of bodies on the "high seas" and bodies recovered and buried by fishermen	45 - 54	15
	1. Bodies discovered on the "high seas"	48 - 51	15
	2. Bodies recovered and buried by fishermen	52 - 54	16
	B. Allegations of extrajudicial executions in the provinces of Togo	55 - 56	17
	C. Allegations of enforced disappearances	57 - 61	18
V.	CONCLUSIONS AND RECOMMENDATIONS	62 - 77	20
	A. Conclusions	62 - 68	20
	B. Recommendations	69 - 77	21
	1. To the Secretaries-General of the United Nations and the Organization of African Unity	70 - 72	21
	2. To the international community	73	21
	3. To the Commission on Human Rights and the African Commission on Human and Peoples' Rights	74 - 75	21
	4. To the Government of Togo	76 - 77	22

Annexes

1. Statement by the Chairperson of the Sub-Commission on the Promotion and Protection of Human Rights

2. Rules of procedure of the Commission

I. INTRODUCTION

A. Mandate

1. On 7 June 2000, Mr. Kofi Annan and Mr. Salim A. Salim, Secretary-General of the United Nations and Secretary-General of the Organization of African Unity respectively, issued a joint press release concerning the establishment, under the auspices of both organizations, of an international commission of inquiry to verify the truth of allegations contained in an Amnesty International report of 5 May 1999, that hundreds of extrajudicial executions had taken place in Togo during 1998, and to report thereon to the two Secretaries-General.

B. Composition

2. The International Commission of Inquiry for Togo (hereinafter "the Commission") is composed of three international experts appointed through mutual agreement by the Secretaries-General of the United Nations and the Organization of African Unity: Mr. Mahamat Hassan Abakar (Chad), Chairman, Mr. Paulo Sergio Pinheiro (Brazil), member, and Mr. Issaka Souna (Niger), member.

C. Methods of work

3. The Commission conducted its inquiry in conformity with relevant international norms, in particular the international human rights instruments in force. The Commission conducted a field mission to Togo and neighbouring countries for the purpose of verifying the allegations in question. In that context, it called on institutions and individuals with a view to collecting the testimony, information and documents needed for the discharge of its mandate. Before leaving on mission, on 12 September 2000 the Commission distributed, through the United Nations offices in Togo, Benin and Ghana, a public information note on its mandate and methods of work, questions relating to the protection of witnesses and any other information sources, and the undertaking of the Government of Togo to cooperate with it. The information note also called on persons wishing to provide the Commission with information, testimony, recommendations or opinions to do so, either orally (interview or hearing by the Commission), or in writing, or by any other means they deemed to be appropriate, adequate and safe. The Commission indicated that such information might be communicated to it directly during its field inquiries, in Togo or neighbouring countries or any other countries it might visit, or to its secretariat at the Office of the United Nations High Commissioner for Human Rights, Palais Wilson, Geneva. A copy of the Commission's rules of procedure was attached to the public information note.

4. The Commission accordingly heard the representatives of the Governments of Togo and Benin, the heads and members of several foreign diplomatic missions accredited in both countries, representatives of international and national human rights organizations, journalists and more than 60 witnesses, in both Geneva and the field. The Commission was also given numerous documents, photographs and pieces of evidence by the persons and institutions concerned.

5. The Commission heard the representatives of Amnesty International on two occasions, at its first and second meetings, held in Geneva in August and September 2000. On both occasions, it also held working meetings with representatives of the Government of Togo. In the field, the Commission held several working meetings with the National Commission set up by the Government of Togo to serve as liaison body. Exchanges between the two Commissions made it possible to clarify certain problems which arose during the field inquiry.

D. Meetings of the Commission in Geneva

6. The Commission began its work on 31 July, and held three meetings in Geneva.

7. The Commission held its first meeting from 31 July to 4 August 2000. It adopted its rules of procedure at that meeting. The rules of procedure contain information relating to its mandate; the solemn declaration made by its members; their immunities and privileges; the relevant international norms; confidentiality of information and protection of witnesses; cooperation with the United Nations, the Organization of African Unity and the Government of Togo; meetings, powers of the Chairman and decisions; the Commission's secretariat and the drafting of its report (see annex 2). During its first meeting, the Commission held exchanges of views with several organizations and with permanent missions to the United Nations Office at Geneva. It heard the delegations of the Government of Togo and Amnesty International.

8. The Commission held its second meeting in Geneva from 18 to 22 September 2000, with a view to preparing its field mission. It took that opportunity to meet with representatives of several bodies and organizations, such as Amnesty International, the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees. It also held a comprehensive dialogue with the delegation of Togo, relating especially to prior conditions for the field mission. The Commission took advantage of its stay in Geneva, which was extended to 11 November 2000 pending a satisfactory response from the Government of Togo to its requests, to settle administrative and logistical problems in abeyance.

9. The Commission held its third meeting in Geneva from 15 to 22 December 2000. At that meeting it finalized and adopted this report, which was drafted following a five-week field mission to Togo and neighbouring countries.

E. Mission to Togo and neighbouring countries

10. The Commission went first to Togo, where it conducted a first visit from 11 to 19 November. It then went to Benin, essentially Cotonou (from 19 to 24 November 2000) and the Mono region on the Togolese border (24 November-2 December 2000), and to Ghana, in the Volta region on the Togolese border (2-4 December 2000). The Commission ended its mission with a second visit to Togo, from 4 to 12 December 2000.

11. The Commission wishes to thank the authorities of Togo, Benin and Ghana for their cooperation. It also wishes to thank the United Nations offices in Togo, Benin and Ghana for providing it with support for the proper functioning of its field mission. The mission enabled it to collect the data and information necessary for the discharge of its mandate.

II. CONTEXT

12. The event which gave rise to the inquiry was the controversy raised by the Amnesty International report of 5 May 1999 on the situation of human rights in Togo. In response to the allegations contained on page 26 of the report, the Government of Togo proposed that an independent international mission of inquiry should be established to verify the truth of the allegations; the proposal was endorsed by the Sub-Commission on the Promotion and Protection of Human Rights and implemented jointly by the United Nations and Organization of African Unity.

A. Allegations contained in the Amnesty International report

13. On page 26 of its report of 5 May 1999, entitled "Togo, Rule of Terror", Amnesty International stated the following:

> "In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin. During its investigative visit, the Amnesty International delegation was able to question numerous individuals, including Beninese and Togolese fishermen, as well as Togolese farm workers who were working in the fields. Those questioned all told of unusual movements of planes and helicopters sometimes flying at very low altitude out to sea. Former soldiers, members of the paracommando regiment, who had sought refuge in Benin, recognized the characteristic sound of Buffalo aircraft. Others questioned also indicated that bodies had been recovered on the beaches, shortly after planes had passed over. One of the fishermen told the following story: 'Eight kilometres from the beach at Ague [in Benin], hundreds of bodies were floating out at sea'; other witnesses confirmed that bodies had been seen for three days at that same place. Another fisherman had filled in the details: 'When I was taking in my nets, I found a corpse among the fish; some corpses were shackled and others were wearing uniforms'. Other fishermen, particularly at Grandpopo in Benin, gave us the same information and specified that the victims' bodies had bullet wounds and that some soldiers were also shackled."

B. Reactions of the Government of Togo

14. The Government of Togo rejected the Amnesty International report, which it called a text "rife with gross fabrications, manipulations and false testimony". It then brought judicial proceedings against Mr. Pierre Sané, Secretary-General of Amnesty International, and against several individuals suspected of having cooperated in the Amnesty International inquiry, for "offence against honour, dissemination of false information, incitement to revolt, offence against national security, complicity to commit an offence against honour, complicity to disseminate false information, complicity to incite to revolt and complicity to commit an offence against national security".

15. The Government of Togo also published a white paper on the allegations contained in the Amnesty International report, which it refuted as follows:

> "Concerning the hundreds of bodies
>
> [...]
>
> With regard to the events cited, the Government of Togo does not acknowledge, in any way whatsoever, such an obvious lie, which does Amnesty International no credit. Does Amnesty International consider the fact that the Government of Togo possesses a Buffalo aircraft, helicopters and shackles to be scientific evidence excluding all doubt? For Amnesty International's information, during the period mentioned in the report, i.e. the June 1998 presidential elections, the Buffalo aircraft in question was not operational. Moreover, how can "executions of hundreds of persons" take place in so tiny a country as Togo without being widely publicized in the national media and the international media present in the country, particularly in the capital, when the accusations of a mere journalist raise such an uproar? How can hundreds of persons be executed without even one of the alleged victims' families expressing its grief, without hearses filling the country's streets? How does Amnesty International explain the fact that an event such as hundreds of bodies washing up on the beaches of Benin never drew a reaction by either the authorities of Benin or the wide range of press organs freely operating in the country? Finally, how does it explain the fact that no diplomatic mission was informed of the hundreds of bodies that washed up on our beaches? Can Amnesty International perform the magic feat of explaining to the Government what happened to those hundreds of bodies, when, where and how they were buried?"

16. Finally, the Government of Togo proposed that an international commission of inquiry should be established to elucidate the controversy raised by the allegations that several hundred people had been victims of extrajudicial executions in Togo following the 1998 elections, and that their bodies had been found by fishermen on the beaches of Togo and Benin and at sea off the Benin coast.

17. On leaving Lomé, the Commission received from the Government of Togo a series of four letters attributed to Mr. Gilchrist Olympio, in support of its conviction that Mr. Olympio and Mr. Pierre Sané had organized a "plot" to destabilize the Togolese Government. The Commission transmitted the letters to the Secretary-General of the Union des forces de changement (UFC) in Lomé, and to Amnesty International, on returning to Geneva. Before finalizing this report, the Commission was informed by the President and Secretary-General of UFC and by Amnesty International that they rejected those allegations as groundless.

C. Sub-Commission on the Promotion and Protection of Human Rights

18. In the context of the Sub-Commission's consideration of the situation of human rights in Togo, its Chairperson made a statement on its behalf, dated 20 August 1999, in which he took note of the proposal of the Government of Togo concerning the establishment of an international commission of inquiry to elucidate the controversy between Amnesty International and itself.

He recommended that the Secretaries-General of the United Nations and Organization of African Unity help set up the commission and provide it with all the assistance it needed to discharge its mandate. He also asked the Government of Togo to cooperate fully with the Commission in order to ensure the proper conduct of the inquiry (see annex 1).

D. Joint action by the United Nations and the Organization of African Unity

19. Pursuant to the proposal of the Government of Togo and in accordance with the statement by the Chairperson of the Sub-Commission, the two Secretaries-General proceeded, as mentioned earlier, to set up the International Commission of Inquiry for Togo. Assistance was provided from the outset by the competent body of each organization, i.e. the United Nations High Commissioner for Human Rights and the Legal Division of the Organization of African Unity, as well as by the permanent mission of the Organization of African Unity to the United Nations Office at Geneva. Subsequently, the Office of the High Commissioner made available to the Commission a support team of four professional staff members, two secretaries and three security officers, who helped it to discharge its mandate in both Geneva and the field.

20. The Commission wishes to thank the Office of the United Nations High Commissioner for Human Rights for providing it with assistance in discharging its mandate, particularly with regard to the provision of a support team. It also wishes to thank the Organization of African Unity for its contribution to its work. It wishes to stress, however, that it alone is responsible for the observations and conclusions contained in this report.

E. Difficulties encountered by the Commission before its departure for the field

21. As mentioned earlier, the Commission was set up on 7 June 2000. It held its first meeting in Geneva from 31 July to 4 August. In accordance with the programme of activities adopted at the meeting, the Commission had planned to travel to Togo on 27 September. It was not able to do so until 11 November, or 1½ months later, which considerably delayed the beginning of its field activities.

22. Some difficulties did indeed arise, leading to a laborious dialogue between the Government of Togo and the Commission.

23. The first difficulties referred to the prior conditions set by the Commission for the conduct of its field mission. These related, on the one hand, to the withdrawal of the complaint lodged by the Togolese authorities against Mr. Pierre Sané and persons suspected of having cooperated with the Amnesty International inquiry and, on the other, to the provision of written guarantees by the Togolese authorities concerning the protection of potential Commission witnesses against any legal proceedings or reprisals subsequent to the field mission. The provision of such guarantees and the suspension of the above-mentioned legal proceedings were a necessary condition for the inquiry to be conducted in a calm, objective and effective manner.

24. Concerning in particular the withdrawal of the proceedings against Mr. Pierre Sané, the Commission also based itself on a letter dated 12 March 2000 from President Gnassingbé Eyadema to the Secretary-General of the United Nations, undertaking to withdraw the proceedings against Mr. Sané, "when the Commission starts its investigations on the field". The Commission reiterated its request in this connection to the Government of Togo at its first meetings in August and September 2000 and in several telephone conversations which its Chairman held with the competent Togolese authorities, in particular the Prime Minister. The Commission also referred to its requirements in letters from its Chairman to the Prime Minister of Togo on 26 and 28 September and 6 October 2000 respectively. The final replies of the Government of Togo to those letters, regarding the withdrawal of the proceedings against Mr. Sané "and company" and the guarantee that no one who testified before the Commission would be prosecuted, did not reach the Commission until 10 and 16 October 2000. On 23 October 2000, the Government of Togo wrote to the Chairman of the Commission reiterating its confidence, as follows:

> "We have taken note of the information relating to a mission of inquiry to Burundi which you conducted during 1994 for Amnesty International.
>
> We wish to express our great satisfaction at receiving this information from you spontaneously, in a gesture which we appreciate and one which denotes great intellectual probity and a strong sense of responsibility on your part.
>
> Given the brief nature of your mission to Burundi and the fact the mandate involved was a specific and very limited one which did not make you a staff member of Amnesty International or in any way subordinate to that body, we would like to confirm that we have no reservations whatsoever to your presence on this Commission."

25. Subsequent difficulties concerned reservations and objections entered by the Government of Togo concerning the composition of the Commission's support team. It insisted that a quota of support team members should be reserved for the Office of the Secretary-General of the Organization of African Unity in order to "reflect the joint nature of the Commission" and also demanded that three people chosen for the support team should be rejected. Concerning the first point, talks held with the Office of the Secretary-General of Organization of African Unity indicated that the absence of its officials on the support team would in no way mar the joint nature of the Commission and, concerning the second point, the Commission was obliged to replace the "rejected" members of the support team in order to avoid its activities coming to a standstill. It did so only for that reason, reiterating the principle that the Commission alone was responsible for choosing its staff.

26. On arriving in Togo, the Commission was given a document attesting to the suspension of proceedings against Mr. Sané and the others, i.e. an order dated 10 November 2000 from the senior judge of the Lomé Court on application of the same date by the Public Prosecutor.

III. FIELD MISSION

27. The field mission enabled the Commission to have access to several information sources, to collect testimony and documents concerning the allegations at issue between the Government of Togo and Amnesty International and to conduct on-site visits.

A. Information sources

28. The information sources basically consisted of testimony. The Commission did, however, have access to documentary sources and was able to conduct on-site visits in certain cases.

1. Documentary sources

29. The documents collected consist essentially of newspapers of the day and of reports by human rights associations and institutions, journalists' trade unions, political parties and the Government of Togo itself. Amnesty International also produced the documentation on which its report was based.

30. The Commission also collected several documents consisting of reports by official entities and non-governmental organizations and by diplomatic missions accredited in Togo and Benin. It also had access to clippings from the private press concerning the matter under inquiry. Of the documents in question, mention should be made of those which were drawn up following a field inquiry into the allegations, namely:

(a) The white paper of the Government of Togo concerning Amnesty International's allegations;

(b) The disputed Amnesty International report of 5 May 1999, a subsequent report by the same organization entitled "Togo: Time for Accountability" (AI: AFR 57/22/99/F, 20 July 1999) and a confidential document entitled "Togo: rappel de l'exposé oral fait par la delegation d'Amnesty International devant la Commission d'enquête internationale sur le Togo, le vendredi 22 septembre 2000 à Genève" ("Togo: Statement delivered by the Amnesty International delegation before the International Commission of Inquiry for Togo, Friday, 22 September 2000 in Geneva") (AI: AFR 57/13/00/F, October 2000);

(c) Report (briefing) on the inquiry conducted by the Ministry of Defence of Benin (Department of Protection, Security and Defence), prepared in July 2000.

31. The Commission also consulted numerous articles from the press, including one from the Togolese newspaper l'Aurore, dated 18 August 2000, and one from the French daily Le Figaro, dated 1 July 1999.

2. On-site visits

32. As stated earlier, the Amnesty International report refers to hundreds of bodies found at sea and on the beaches of Togo and Benin, several of which had allegedly been buried by local fishermen and villagers. To verify those allegations, the Commission conducted on-site visits to the sites concerned, as follows:

(a) Lomé, from 13 to 18 November 2000 and 4 to 12 December 2000;

(b) Cotonou, Benin, from 19 to 23 November 2000;

(c) Grand-Popo, Agoué and Ouidah, Benin, from 24 November to 2 December 2000.

The Commission visited several communities referred to in the allegations. These included the villages of Ayi-Guinnou and Avlo (25 November), Agonnêkamé (26 November), Zogbedji-Plage (27 November) Agoué (28 November) and Ayido-Plage (30 November). On those occasions it heard nearly 30 fishermen in all and visited a few graves located directly on the beaches;

(d) Agbozume, Ghana, in the Volta region on the Togolese border, from 2 to 4 December 2000; and

(e) The Togolese communities of Afagnan (6 December 2000), Dokpohoé, in the cantons of Sandomé (7 December 2000), Sokodé and Kara-Sud (9 December 2000).

33. These visits were supplemented by consultation of the registers (police diaries) of several gendarmerie brigades with territorial competence to register accidental deaths (drownings, traffic accidents, hunting accidents, etc.) occurring in these communities. The Commission was given access to the registers of the brigades of Grand-Popo (27 November 2000) and Agoué (28 November 2000). Lacking prior authorization from the Public Prosecutor, the Deputy Commander of the Ouidah brigade did not allow the Commission to consult its register.

34. As Amnesty International's allegations also referred to the use of aircraft, including a Buffalo aircraft, to dump bodies at sea, the Commission travelled to the Lomé-Tonkoin military airport on 17 November 2000, to visit the military aircraft there and requested and obtained technical information on their functioning. The information concerned the aircraft's operational features, in particular their possibilities of dumping bodies in flight. To supplement this information, the Commission also travelled to the premises of the Agency for Air Navigation Safety in Africa and Madagascar (ASECNA), in Lomé, on 11 December 2000, where it obtained information concerning flights, including local flights, made by civil and military aircraft from the Lomé-Tonkoin airport from 1 January to 31 December 1998. This information concerns the aircrafts' take-off and landing times.

3. Testimony

35. The Commission collected more than 1,000 accounts in all. These accounts may be divided into two categories. The first consists of testimony from persons who state that they have seen or buried corpses washed up by the sea, in Benin. These eyewitnesses are basically fishermen and other villagers living in the communities located along the adjacent sea coasts of Togo and Benin, from Grand-Popo to Ouidah. The second category of testimony consists of statements and opinions from persons with knowledge of the allegations. This category includes diplomats, governmental, prefectoral and communal leaders, representatives of specialized agencies of the United Nations system, journalists, teachers, human rights activists, political activists and any other persons who spoke with the Commission either spontaneously or at its request.

B. Attempts to bribe witnesses in Benin

36. During its inquiries around Benin, especially in the sub-prefectures of Grand-Popo and Agoué, the Commission was confronted with manoeuvres aimed at intimidating and bribing the fishermen whom it wished to question. To be sure, this was apparently not the first attempt by the Togolese authorities to cover up the tracks. The documentary sources which the Commission had to study for 1999 and the testimony in this connection suggest that the Government of Togo had already tried earlier to bribe Beninese journalists and Beninese citizens living in the areas where the bodies had been washed up. Similar incidents had been observed previously in June 1999 - testimony of district heads and some of the people living in Beninese localities bordering on Togo - and had led in particular to a protest march by the people of Grand-Popo.

1. Testimony of district heads and other Beninese nationals to the Togolese press

37. Following the publication of the Amnesty International report in May 1999, some Grand-Popo (Benin) district heads and other natives of the same region appeared on Togolese television to refute the claims of the "discovery of dead bodies" out at sea and on some beaches in Benin. On Saturday, 22 May 1999, four district heads of Grand-Popo commune went to Lomé, without the knowledge of the local administrative authorities and of the people they were supposed to represent, to testify on Togolese television and radio that they had never seen bodies washed up on the beaches. The same sources report that these district heads were received by President Eyadéma and were paid by him for their testimony. When they made their statements on Togolese television, these district heads and the other persons concerned appeared in traditional costumes normally worn by the Popo community for their main festivals, especially at Whitsun, during reunions of the members of NONVICHA (an association founded in 1923, representing all the Popos from Benin and abroad). Their testimony reportedly caused consternation in the Popo community and profound indignation among its leaders and prominent figures, who summoned the persons concerned in order to question them and reprimand them publicly. Popular discontent was furthermore expressed in a protest march organized at

Grand-Popo on 9 June 1999. This march ended with the handing in of a petition to the sub-prefect which soundly condemned these actions and called for the dismissal of the district heads concerned. Four of the district heads were, in fact, suspended by the sub-prefect for having gone to Togo without higher authorization.

38. When asked whether these district heads and other persons were censured for having testified in Togo with the symbols of the Popo community or for having lied, the prominent figures and witnesses questioned gave both reasons.

2. The media

39. In 1999, after the publication of the report of the Beninese Human Rights League on the affair of the "Togolese bodies" (a report that confirmed the discovery of Togolese bodies, which it estimated as numbering about 100), the Togolese authorities reportedly approached some Beninese journalists and asked them to deny the League's information subject to remuneration. These attempts to bribe Beninese journalists to discredit the report of the Beninese Human Rights League apparently failed and were unmasked by the Beninese newspaper Le Progrès, in its issue 277 of 27 July 1999, in an article entitled "Eyadéma wants to bribe the Beninese press". Benin's Observatory for Good Practice and Ethics in the Media (ODEM) looked into the case and took sanctions against the journalists implicated in this affair.

3. The fishermen

40. Some fishermen likely to give evidence to the Commission were approached by Mr. Philippe Adahoumehé, an agronomist working for an NGO based in Comé, Benin, who dissuaded them - by bribery (money) or threats - from cooperating with the Commission. Some witnesses admitted to the Commission that they had received sums of money amounting to CFAF 3,000 not to give evidence and others, who had declined the offer, were threatened. Mr. Adahoumehé reportedly told them: "Be careful, your names are already in the office of the President of the Republic", by which he meant "the President of the Republic of Benin". On Saturday, 25 November 2000, the Commission went to the village of Ayi-Guinnou, where it was to hear testimony from a group of fishermen. Some witnesses revealed at this meeting that, two days before the Commission's arrival, Mr. Adahoumehé had given the fishermen money to deny having seen any dead bodies. Among the fishermen questioned, one witness admitted having received money from Mr. Adahoumehé, but affirmed that this had not prevented him from telling the truth about what he had seen.

41. The Commission informed the Grand-Popo sub-prefect about the actions of this individual, wondering also for whom and at whose prompting he was acting. The sub-prefect told the Commission that he had summoned and questioned him, but the man had denied that his actions were in any way related to the Commission's inquiry. He stated that the handing out of the money was part of his work of supervising a group of fishermen. The Commission is not satisfied with this answer. Indeed, it noted an increasing lack of cooperation on the part of the people whom it had arranged to meet and who had promised to cooperate. Most of those not yet questioned had withdrawn their earlier offers to cooperate with the Commission. The Commission also observed that its movements in the villages of this area were preceded or

followed by visits from Mr. Adahoumehé. The Commission requested the Beninese authorities to provide for the safety of the people who had cooperated with it in this area, especially those who had received threats from Mr. Adahoumehé, and stated that it would hold him responsible for any incident that might occur after the mission.

IV. ALLEGATIONS OF EXTRAJUDICIAL EXECUTIONS IN 1998

42. The Amnesty International report of 5 May 1999 (see para. 13) alleges, inter alia, on page 26 that some bodies were found on the beaches of Togo and Benin and that others were seen at sea off the coast of Benin for at least four days. The Togolese Government has itself published a white paper (see para. 15) rejecting these allegations. Since these allegations concerned the beaches of Benin, the Commission went to that country, in particular visiting the sub-prefectures of Grand-Popo, which borders on Togo, and Ouidah. It stayed there from 24 November to 2 December 2000. The members of the Commission visited numerous fishing villages extending along the shores of the ocean up to the Togolese border to the west.

43. In addition to the fishermen, the Commission also heard the accounts of Beninese officials and other persons.

44. These many witness accounts, while gathered from different places, agree on the following points.

A. Allegations concerning the discovery of bodies on the "high seas" and bodies recovered and buried by fishermen

45. The Commission went to the Togolese and Beninese beaches concerned. Around these beaches, there are fishermen organized in villages and engaged in small-scale fishing. Some villages have existed for more than a century. The communities living in these villages generally speak the same language and have relatives on both sides of the Benin-Togo border. Some Ghanaian nationals are also to be found in these villages. These communities all seem to live in harmony. Some Togolese refugees share the fate of their Beninese "brothers". Many have returned home, while others have settled in Benin.

46. In general, the Commission's arrival was welcomed and a willingness to cooperate was perceptible, although fear of reprisals in some cases did not allow everyone wishing to cooperate with the Commission to do so.

47. Several graves where the fishermen had reportedly buried some of the dead bodies found were shown to the Commission. The Commission was unable to exhume the bodies owing to a lack of human and scientific resources.

1. Bodies discovered on the "high seas"

48. It should be made clear that the term "high seas" is used by the fishermen to mean an offshore area between 10 and 20 km from the coast. It does not correspond to the term "high seas" as defined by the United Nations Convention on the Law of the Sea concluded on 10 December 1982.

49. The many witness statements gathered are concordant: during part of 1998, several fishermen reportedly saw a large number of dead bodies floating while they were fishing on the "high seas". On discovering these bodies, some fishermen took fright and for a while reportedly stopped going out to fish or avoided going onto the "high seas" and simply kept close to the shore. It would appear from the descriptions given that some bodies were found almost naked, and others clothed, most of them being in an advanced state of decomposition. The discovery of these dead bodies at the time became a subject of conversation and a cause for concern throughout the area.

50. When the Commission raised the problem of the number of dead bodies, however, the estimates given by the fishermen differed. When asked by the Commission, "Approximately how many bodies did you see?", some answered "many", others estimated that they had seen about 60 bodies, and still others spoke of 100 or 150 bodies. No group of fishermen (whose boats carry 7 to 15) apparently had the courage or presence of mind to make an actual count of the floating bodies. The first reaction of the fishermen on seeing this frightening spectacle was reportedly to leave the area and make their way back to their villages.

51. The discovery of dead bodies on the "high seas" seems to be corroborated by concordant testimony. However, it would be risky for the Commission to put forward any figure to determine the exact number. Furthermore, concerning the allegations of the use of aircraft to dump bodies at sea, the Commission is unable, with the information currently in its possession, either to confirm or to dismiss such claims.

2. Bodies recovered and buried by fishermen

52. The Commission gathered numerous concordant and consistent witness accounts about the unusually large number of unknown bodies said to have been recovered on the coast and buried by fishermen during the period of 1998 in question. The fishermen took the Commission to the various sites where these bodies had reportedly been buried. According to their accounts, at least two bodies were found with no heads. When asked whether the heads might have been eaten by fish, the fishermen stated categorically that the fish do not eat heads but only bite at arms and legs.

53. Some of the fishermen who regularly informed the local gendarmerie whenever they found a dead body apparently quickly tired of doing so. The gendarmerie would make a charge of CFAF 3,000 to 5,000 each time they were called out. Moreover, frequent summonses to the gendarmerie station are said to have deterred the fishermen from informing the authorities and they reportedly opted to bury the bodies in a hurry and secretly or else quite simply pushed them a little further out to sea so that they would wash up elsewhere.

54. For greater certainty, the Commission asked the fishermen whether the bodies were not those of inhabitants from neighbouring areas, i.e. Beninese. The fishermen were almost unanimous in saying that when there is a natural drowning or a fishing boat capsizes, the coastal dwellers from Togo to Benin alert one another, and the families concerned come and pick up the

bodies. In conclusion, according to the fishermen, the dead bodies found were not victims of natural drowning or the capsizing of a fishing boat. Since the bodies had been carried from west to east by the sea current, they could have come, according to these fishermen, only from Togo, which is situated geographically to the west of Benin.

B. Allegations of extrajudicial executions in the provinces of Togo

55. The Commission gathered numerous witness accounts relating to allegations of extrajudicial executions perpetrated inside Togo. Two cases of executions were, for example, reported to the Commission at Kara-Sud. Mr. Palanga N'Gamnouwe Germain, a chief forest warden, was allegedly summoned, with no apparent reason, on 24 April 1998 to the Kara gendarmerie station, where he is said to have been arrested and tortured severely for three days; he reportedly died there on 27 April. His arrest was allegedly due to remarks he had made to the gendarmes about the way in which they had parked a private vehicle on a bridge with the doors open. During the same period, Kéléou Pélé, arrested for death threats against his older brother by the Kara gendarmerie, reportedly died after three days of detention following the torture allegedly inflicted upon him.

56. The Commission presents below two summary tables listing the cases brought to its attention:

Table 1

Alleged victims of extrajudicial execution

Name	Date and place of birth or age	Occupation	Last known address	Date of death	Place of death
POMEAVOR Hoffia Messan	1968	Lottery ticket seller	Akato Avoemé (Lomé commune)	March 1998	Akato
TEKO ALLYN Anani	24.12.1957	Unskilled labourer	OTP-Kpeme (Togo)	November 1998	Reportedly killed outside his home
AMOUZOU Koffi	27 years		Aflao (Ketu district), Ghana	June 1998	Azaou
AHIAKPO Koffi Roger	30 years		Aflao (Ketu district), Ghana	June 1998	Azaou
KOSSI Kossi	25 years	Apprentice tailor	Afagnan	26.6.1998	Afagnan

Name	Date and place of birth or age	Occupation	Last known address	Date of death	Place of death
KEKGBÉ Koffi Mathieu		Photographer	Dokpohoé village	28.9.1998	Killed and disembowelled at his home
PALANGA N'GAMNOUWE Germain	31.7.1963, Lomé	Deputy forest warden	Kara, Chaminade district	27.4.1998	Died following torture at Kara gendarmerie station
KÉLÉOU Pélé	32 years		Kara	April 1998	Died following torture at Kara gendarmerie station

Table 2

Alleged deaths resulting from torture and ill-treatment in detention centres

Name	Date and place of birth or age	Occupation	Last known address	Date of death	Place of death
AHADJI Kodjo	35 years	Builder	Civil prison, Lomé	December 1998	Lomé
TENOU Koffi	65 years	Salesman	Civil prison, Lomé	June 1998	Lomé

C. Allegations of enforced disappearances

57. The Commission's visit to Ghana, close to the Togolese border, from 2 to 4 December 2000, enabled it to meet the next of kin of persons reported missing and/or summarily executed. During the various disturbances and clashes between the political opposition and the Government which Togo has witnessed in the 1990s, many opposition party members have sought refuge in neighbouring countries, including Ghana. For the most part, these refugees are young. Many of them have apparently interrupted their high school studies; they have no occupational training and no resources to fall back on. Some of them, in order to survive, are obliged to cross the border between Ghana and Togo in order to obtain small amounts of money and food from their families.

58. According to witness reports, young refugees have apparently been detained by the security forces when entering or leaving Togo. These arrests take the form of abductions by plain-clothes members of the security forces who use unmarked vehicles or vehicles without number plates. They generally operate under the command of Captain Yark.

59. Many people are afraid to try to discover the whereabouts of their relatives. Others have tried and have reportedly visited gendarmerie and police stations, to no avail. Many relatives have given up all hope of finding their kin alive once they have been arrested by the security forces.

60. The Commission has identified eight disappearances that took place in 1998. But it should be remembered that fear of reprisals has dissuaded many relatives from testifying.

Table 3

Missing persons

Name	Date and place of birth, age and origin	Occupation	Last known address	Date of arrest	Comments
AKAKPOSSA Koffi "Hitler"	1970, Lomé	Welder	Sanzulé refugee camp	22.12.1998	Not seen since arrest
ASSIONGBON Nicolas	1968, Lomé	Dressmaker	Avoemé - Lokotomey V/R, Ghana	October 1998	Not seen since arrest
DJIEWONE Adrisse "Ringo"	1970	Car parts salesman	Sikakope Denu, Ghana	10.8.1998	Not seen since arrest
EDOH Komlan	1980, Akato	Student	CEG Sanguera - Lomé	20.8.1998	Not seen since arrest
KOUNI Kodjo	1976, Akato	Painter	Akato Avoemé	20.8.1998	Not seen since arrest
HOMAWOO Yao	24 years	Forwarding agent	Gbenyedji district	8.2.1998	Not seen since arrest
AKAKPO Kokou	39 years, Lomé	Driver	Aflao - V/R - Ghana	7.2.1998	Not seen since arrest
SENYO Eugène	47 years, Paline	Driver	Ghana	7.2.1998	Arrested while travelling to Togo

61. As in the case of the alleged extrajudicial executions in the provinces, the Commission forwarded the list of arrested and missing persons to the Togolese authorities in a letter dated 12 December 2000 with a view to eliciting fuller information about the whereabouts of the individuals in question. As of the adoption of this report, no reply has been received.

V. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

62. The Commission began inquiries at its first meeting in Geneva, and completed them with its five-week field mission. The various avenues of inquiry pursued by the Commission have enabled it to draw the following conclusions.

63. The Commission is convinced that allegations of extrajudicial executions in Togo should be given due consideration. In the main, those singled out for execution have been members of opposition parties, but in some cases persons arrested for offences under ordinary law have also been executed. As to the perpetrators, various accounts seem to indicate that they are individuals associated with the security forces, the gendarmerie and the militias that operate in tandem with the authorities. In addition to extrajudicial, summary and arbitrary executions, these elements have engaged in torture and ill-treatment of detainees, and the rape and abduction of women in certain areas.

64. Moreover, armed militiamen closely linked to the authorities and often operating in groups, who reportedly enjoy the support and encouragement of the current Prime Minister, Mr. Agbeyomé Kodjo, are said to rape rural women in the presence of their husbands. They also abduct women and hand them over to other men for payment. In the course of these night-time raids, the militiamen also rob their victims.

65. Although they have been apprised of these allegations, the gendarmerie and the local authorities have been unable to put a stop to the crimes. Exasperated by this situation, rural people reported these incidents to the Ligue Togolaise des Droits de l'Homme (Togolese League for Human Rights, LTDH). Thus, approximately 12 women aged between 12 and 40 are reported to have been raped in Yoto Prefecture. No judicial proceedings have been set in motion as a result of the victims' complaints.

66. Regarding establishment of responsibilities, the Commission is of the opinion that a judicial inquiry at the national level is the only means of identifying the individuals responsible for these human rights violations.

67. Regarding allegations that bodies have been discovered by fisherman on the "high seas", the Commission has already stated that a number of accounts appear to substantiate these reports. However, the divergent estimates of the number of bodies seen by fishermen do not permit the Commission either to confirm or to deny an exact number. Nor can it confirm or deny, on the basis of the information currently available, allegations that aircraft have been used to dump bodies on the "high seas".

68. Nevertheless, the above-mentioned facts point to the existence of a systematic pattern of human rights violations in Togo in the course of 1998. Accordingly, the Commission wishes to submit the following recommendations.

B. Recommendations

69. Effective implementation of the Commission's recommendations should contribute to the establishment of an environment in Togo favourable to respect for human rights, the elucidation of the facts which this inquiry seeks to achieve, and the identification and possible prosecution of the alleged perpetrators of these violations, especially those involving extrajudicial executions. These recommendations are addressed, respectively, to the Secretaries-General of the United Nations and the Organization of African Unity, to the international community, to the Commission on Human Rights and the African Commission on Human and Peoples' Rights and to the Government of Togo.

1. To the Secretaries-General of the United Nations and the Organization of African Unity

70. The Commission strongly recommends the publication of this report.

71. The Commission also recommends the appointment of another team of experts to be entrusted with the task of verifying the technical data concerning the operation of aircraft used by the Togolese armed forces, the computerized records of flights at the Lomé-Tonkoin airport throughout 1998, and the trajectories of the bodies in the territorial sea adjacent to the coasts of Togo and Benin.

72. The Commission would have liked to have more time and facilities to elucidate most of the facts related to its inquiry. As this was not possible, it recommends that the two Secretaries-General should appoint a team of forensic scientists to exhume and examine bodies reportedly buried in Togo and Benin. This expert appraisal should help to determine the identity of the victims and the causes of their deaths.

2. To the international community

73. Bearing in mind its concerns with regard to the protection of the witnesses who have cooperated in its inquiries, the Commission recommends that the States Members of the United Nations and the relevant international organizations should provide their financial support to the Office of the High Commissioner for Human Rights with a view to enabling it to implement a mechanism of regular follow-up of the situation of these witnesses.

3. To the Commission on Human Rights and the African Commission on Human and Peoples' Rights

74. The Commission recommends the appointment of a special rapporteur on the situation of human rights in Togo. The Commission is convinced that the creation of such a mandate would

allow for the development of closer cooperation between the Commission on Human Rights and the Togolese authorities and Togolese civil society with a view to better protection of human rights in Togo.

75. The Commission furthermore suggests that the Special Rapporteurs of the Commission on Human Rights and the African Commission on Human and Peoples' Rights concerned, respectively, with extrajudicial, summary and arbitrary executions, torture and violence against women should make periodic visits to Togo. The Commission is convinced that such visits and the resulting mission reports would enable the Government of Togo and Togolese civil society to prevent similar violations from being perpetrated in the future.

4. To the Government of Togo

76. The Commission recommends that a criminal inquiry should be commenced as soon as possible through the establishment of a special team of judges entrusted not only with elucidating the various allegations of extrajudicial executions, enforced disappearances and other violations mentioned in this report and in other documents, but also with prosecuting and punishing, as appropriate, the perpetrators of these violations. Should such an initiative be undertaken, the Commission would appreciate the Government informing the United Nations and the Organization of African Unity about the results of these actions.

77. The Commission furthermore recommends that the Government of Togo should adopt legislative and other measures to punish and prevent the perpetration of such violations, in conformity inter alia with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

Annex 1

STATEMENT DELIVERED ON 20 AUGUST 1999 BY THE CHAIRPERSON OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Situation of human rights in Togo

Concerned by the allegations that several hundred people were victims of extrajudicial executions in Togo in 1998, the Sub-Commission has taken note of the controversy which has arisen as to whether or not, or the extent to which, these allegations are true,

Considering that, on account of this controversy, it was urgent that an appropriate and effective investigation should be undertaken in accordance with international norms and in an impartial and independent manner, with a view to establishing the truth,

Following the constructive discussions which the Togolese delegation has had with, inter alia, the Office of the High Commissioner for Human Rights and members of the Sub-Commission,

The Sub-Commission:

(a) Welcomes with satisfaction the initiative of the Government of Togo to set up an international commission of inquiry in accordance with international norms;

(b) Also welcomes favourably the proposal of the Government of Togo to request the Secretary-General of the United Nations and the Secretary-General of the Organization of African Unity to set up the commission of inquiry in accordance with international norms;

(c) Takes note of the willingness of the Government of Togo to ask the Secretary-General of the United Nations and the Secretary-General of the Organization of African Unity to provide, as required, the assistance necessary for the proper functioning of the international commission of inquiry;

In addition, taking account of the observations of the Sub-Commission, the Government of Togo has undertaken to:

(a) Provide the international commission of inquiry with support and assistance so that it can accomplish its task with competence in accordance with international norms, and within a reasonable time;

(b) Take all appropriate measures to ensure that the competent authorities cooperate fully with the international commission of inquiry.

The Sub-Commission requests the Secretary-General of the United Nations and the Secretary-General of the Organization of African Unity to report to it at its next session on the results of the efforts made in the framework of the present statement.

Annex 2

International Commission of Inquiry for Togo

RULES OF PROCEDURE

Adopted at Geneva on 4 August 2000

Article 1. Mandate

The Commission shall collect, examine and analyse all information relevant to the allegations that hundreds of people were victims of extrajudicial executions in Togo in 1998 with a view to establishing the truth. The Commission shall take into account the context, modalities and impact of those events. The work of the Commission shall be conducted in an impartial and independent manner in accordance with international norms.

Article 2. Solemn declaration

1. The members of the Commission shall be required to make the following solemn declaration:

> "I solemnly undertake to perform my duties and exercise my powers as a member of the Commission independently, honourably, faithfully, impartially and conscientiously."

2. The members of the Commission secretariat shall be required to make the following written declaration:

> "I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me as a staff member of the International Commission of Inquiry for Togo and to respect and safeguard the confidentiality of all sensitive information, including the sources, provided to the Commission during the course of its investigations."

Article 3. Privileges and immunities

The Commission, including all members of the Commission, shall enjoy all forms of protection accorded by the Convention on the Privileges and Immunities of the United Nations.

Article 4. International norms

The inquiry shall be conducted in accordance with relevant international norms, including the international human rights instruments currently in force and, in particular, the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, the Guidelines for the Conduct of United Nations Inquiries into Allegations of Massacres and the Declaration on the Protection of All Persons from Enforced Disappearances.

The Commission shall also be guided by other relevant materials, including the draft Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and guiding principles 5 to 12 relating to the establishment of extrajudicial commissions of inquiry (E/CN.4/Sub.2/1997/20/Rev.1, annex II), adopted by the Sub-Commission on the Promotion and Protection of Human Rights at its forty-ninth session.

Article 5. Methods of inquiry

In order to fulfil its mandate, the Commission shall:

(a) Receive from governmental and non-governmental sources information, documentation and all other material relevant to establishing the truth;

(b) Request information, documentation and all other material relevant to establishing the truth from Governments, including from the Government of Togo, the United Nations and the Organization of African Unity, civil society organizations, including political parties, the press and individuals;

(c) Undertake fact-finding missions in any part of Togo or other cooperating countries, including on-site visits with unrestricted access and unhindered interviews, in order to obtain additional information, collect evidence, record testimonies and verify facts;

(d) Interview victims, witnesses and other persons allegedly involved in violations of human rights, including persons accused, or against whom there is evidence, of involvement in human rights violations;

(e) Solicit the cooperation of any expert or knowledgeable person who may be able to assist the Commission in the fulfilment of its mandate;

(f) Compile, analyse and verify information and all relevant materials received through the above-mentioned methods and sources.

Article 6. Confidentiality of information and protection of witnesses

1. The Commission shall ensure that individuals and their families are protected from threats or retaliation of any kind for cooperating with the Commission. To this end, the Commission shall adopt procedures and methods of work aimed at protecting such persons during all stages of the inquiry as well as thereafter.

2. Members of the Commission and members of the secretariat shall exercise discretion. They shall refrain from taking a stand in public on any issue or confidential question under discussion in the Commission. The Chairman shall make information on the work of the Commission available to the public to the extent that the Commission deems it appropriate.

3. All written materials and records of the Commission, as well as other material evidence gathered by it during the inquiry, shall constitute the property and archives of the United Nations and shall enjoy the treatment granted to such property and archives under the Convention on the Privileges and Immunities of the United Nations.

Article 7. Cooperation with the United Nations, the Organization of African Unity and the Government of Togo

The Commission shall endeavour to establish cooperation with the United Nations, the Organization of African Unity and the Government of Togo based on the following commitments:

(a) At the request of the Commission, the United Nations and the Organization of African Unity shall provide the assistance necessary for the proper functioning of the Commission;

(b) At the request of the Commission, the Government of Togo shall provide the Commission with support and assistance so that it can accomplish its task with competence and within a reasonable time; it shall take all appropriate measures to ensure that the competent authorities cooperate fully with the Commission. At the request of the Commission, appropriate security arrangements shall be undertaken to protect the Commission's personnel, premises, documents and materials. The Government of Togo shall guarantee in particular, freedom of movement, freedom of access to all sources of information and unhindered contacts with government authorities, civil society organizations and individuals.

Article 8. Meetings, powers of the Chairman and decisions

1. The Commission shall hold its meetings in private. It may, however, hold public meetings when it is deemed necessary for the effectiveness of its work.

2. The Chairman shall declare the opening and closure of each meeting of the Commission, direct the discussions, accord the right to speak, put questions to the vote, announce decisions, rule on points of order and exercise control over all proceedings.

3. The Chairman shall be the spokesperson for the Commission and shall represent the Commission in its external contacts. He may delegate his powers in cases where he is unable to exercise them.

4. The Commission shall take its decisions by consensus. In the absence of a consensus, decisions of the Commission shall be taken by a majority of two of the three members.

Article 9. Secretariat

The secretariat of the Commission shall be responsible for taking all necessary measures to ensure that the work of the Commission, including its meetings, is carried out effectively. The secretariat shall ensure the collection, preparation and distribution of documents and materials to the members of the Commission as requested by the Commission, its Chairman or any member thereof. It shall be responsible for the preparation of the records of the proceedings of the Commission.

Article 10. Report

1. The Commission may designate a rapporteur on any topic of a general or specific nature.

2. The Commission shall report its findings, conclusions and recommendations to the Secretaries-General of the United Nations and the Organization of African Unity.

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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 9 of the provisional agenda
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Letter dated 22 January 2001 from the Prime Minister of Togo addressed to the United Nations High Commissioner for Human Rights

We acknowledge receipt of the report of the Commission of the Organization of African Unity and the United Nations concerning the allegations of Amnesty International, which you kindly made available to us. From an analysis of its content it is clear that this is in fact a partial report by a Commission which has exceeded its mandate and of which some members are known to have links to Amnesty International.

Accordingly, the Government of Togo declares this report inadmissible. It has been well established that Amnesty International's allegations are without any foundation and that this report is a political fabrication aimed at discrediting the Government and people of Togo.

As proof, we are making available to you the correspondence which Mr. Gilchrist Olympio sent to Mr. Pierre Sané for the preparation of the Amnesty International report and indicating the commissions paid by that individual to the Secretary-General of Amnesty International.

It should be noted that, notwithstanding all of his denials, Mr. Gilchrist Olympio cannot dispute the authorship of the above-mentioned correspondence, since the findings of the studies made by a United States forensic handwriting examiner attest to the fact that Mr. Olympio actually signed the documents in question.

Accept, Madam, the assurances of my highest consideration.

(Signed): Messan Agbeyome Kodjo
Prime Minister

Annexes:*

1. Reaction of the Togolese Government
2. Correspondence from Mr. Olympio to Mr. Pierre Sané
3. Attestation of the United States handwriting examiner

* Annexes 2 and 3 are reproduced as received, in English and French only.

Annex 1

REACTION OF THE GOVERNMENT OF THE TOGOLESE REPUBLIC TO THE REPORT OF THE INTERNATIONAL COMMISSION OF INQUIRY OF THE ORGANIZATION OF AFRICAN UNITY AND THE UNITED NATIONS CONCERNING THE ACCUSATIONS OF AMNESTY INTERNATIONAL

Report of the Government of Togo on the Amnesty International affair

1. The Amnesty International report

On 5 May 1999, Amnesty International published a grossly misleading report attacking the Togolese authorities and accusing them of barbarous acts. The most damning passage concerned the period of the June 1998 Presidential election.

The report inter alia stated:

> "In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin."

2. The political circumstances

It should be pointed out that the Amnesty International report was deliberately published on the day when the facilitators of the inter-Togolese dialogue were to arrive in Lomé.

The aim was therefore to paralyse this dialogue, which the terrorist faction of the opposition led by Gilchrist Olympio was against, unlike the other opposition parties. This fact alone is enough to demonstrate the complicity between, on the one hand, the authors of the report and especially the Secretary-General of Amnesty International, Mr. Pierre Sané, and, on the other hand, Mr. Gilchrist Olympio. A similar complicity occurred, at the time of the Presidential election, between Mr. Olympio and the European Regional Information Society (ERIS), an association working for the European Union to observe the election. This was denounced by the former Prime Minister of France, Mr. Michel Rocard.

3. The judicial proceedings and inquiry

As soon as the Amnesty International report was published, the Governmen. of Togo instituted legal proceedings against the authors of the report and their accomplices.

A judicial case was furthermore opened concerning the crimes allegedly committed.

An investigation conducted, beach by beach, by the national gendarmerie as part of the inquiry helped to show that none of the facts referred to in the report were correct.

In connection with the complaint of the Minister of Defence, the first examining magistrate charged four people on 7, 14 and 20 May 1999 with complicity to commit an offence against honour, dissemination of false information and incitement to revolt.

The persons questioned as part of the inquiry pointed out furthermore that while they had reported rumours to fuel the Amnesty International report, they had never mentioned any of the imagined deaths referred to therein.

Those asked the question:

"The Amnesty International report refers to hundreds of bodies found on the beaches of Togo and Benin. What do you say to this?"

responded on 11 May 1999 as follows:

Mr. Gayibo laughed and said:

"I personally never heard about that."

Mr. Tengue himself said:

"Hundreds of bodies! For me, that sounds like science fiction. And there was no mass gathering? You know the problem of mass gatherings in Togo. We love dead bodies. Hundreds of bodies and no reaction? The whole town would have stayed home for the funerals."

Another person questioned, Brice Sant'Anna, said:

"Mr. Tengue also asked us to add some phoney information about alleged human rights violations.

"That is how the members of Amnesty International came to be handed a document we had prepared under those conditions. That document was later seized by the police. It contained the following sentence: 'for some time discoveries of dead bodies have been made on the Togolese coast'.

"I think it is this erroneous information that was then turned by the members of Amnesty International, serving as accomplices of Gilchrist Olympio, into an accusation concerning a hundred or so deaths.

"We did not check on the truthfulness of the information published.

"I know that when he came to Lomé, Gaétan Moutoo of Amnesty International slept for the first night at the home of Mr. Gninivi, with whom he had been friendly at Tokoin Wuiti.

"He later went to Le Bénin hotel, but we were asked to look after him and give him our press files for him to add to his report against Togo.

"In the course of those meetings, I learnt that Mr. Sané was a friend of Gilchrist Olympio, whom he had met on several occasions and whose action he supported.

"We prepared several visits by Mr. Moutoo to the interior of the country. In that connection, we asked some local people to come forward and say that they had been victims of human rights violations. They then repeated those allegations to Mr. Moutoo. I myself led the Amnesty International representatives around the Lakes prefecture, while Mr. Tengue took them to Notsé."

The judicial inquiry thus reveals that:

- The facts adduced by Amnesty International are incorrect;

- The Amnesty International report is the product of complicity between the leaders of Amnesty International and some terrorist opposition leaders, including Gilchrist Olympio.

4. The concordant international testimony of observers and journalists

The inquiry confirms what all the observers and journalists present in Lomé at the time of the Presidential election themselves noted.

None of them lends credence to Amnesty International's claims. They all confirmed the calm and quiet atmosphere of the election and they never heard anyone report these alleged deaths. This is also what an Africa specialist, the journalist Stephen Smith, confirmed in the daily newspaper Libération.

The President of the French Republic, Mr. Jacques Chirac, while visiting Lomé in July 1999, for his part described the Amnesty International report as being the result of manipulation.

5. The request by Togo for a commission of inquiry

In the light of the above, the leaders of Amnesty International should have been put on trial in Lomé.

However, in order to provide evidence of his good will and undeniably bring out the truth, the President of the Togolese Republic, Gnassingbé Eyadéma, called for an international commission of inquiry to be set up under the joint auspices of the United Nations and the Organization of African Unity.

After its mandate was defined, the Commission was set up on 7 June 2000. Its establishment was announced in a joint press release of the United Nations and the Organization of African Unity. The press release states that the Commission was set up at Togo's initiative.

6. The Commission's mandate

The Commission was given the task of verifying whether or not the following allegations in the Amnesty International report are founded:

> "In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin."

7. Composition of the Commission

The Commission is composed of the following:

Chairman: Mr. Mahamat Hassan Abakar (Chad);

Members: Mr. Paulo Sergio Pinheiro (Brazil);
Mr. Issaka Souna (Niger).

The Commission was assisted by a support team. The composition of this team raised some comments on the part of the Government of Togo, as certain of the members proposed had had links to Amnesty International.

Following the removal of these members, the Chairman of the Commission informed the Government that he himself had conducted missions for Amnesty International and asked whether this would make it necessary for him to resign from his post. The Government replied that it did not intend to take any decision which it was the Chairman's prerogative to take as his conscience dictated.

The Government of Togo does not intend to interfere in the Commission's activities; it simply wishes to see an independent and impartial inquiry bring out the truth after the wild accusations which have been brought to bear against Togo.

However, it cannot help but regret that certain members of the Commission were chosen from among Amnesty International teams, which casts doubt on their work.

8. Prior conditions

Two prior conditions set by the Commission delayed its arrival in Lomé:

(a) It was requested that judicial proceedings against Pierre Sané and his accomplices should be suspended. This is quite an unusual request in a State under the rule of law.

Nevertheless, the Head of State agreed that the Government of Togo would withdraw its complaints as soon as the Commission arrived in the field.

(b) It was also requested that the security of witnesses should be guaranteed. This request was granted all the more willingly as the Government of Togo, which had requested the establishment of the Commission of Inquiry, naturally wished in no way to bring its work to a standstill or influence its investigations.

In a press release dated 20 October 2000, the Commission stated:

> "The Government of Togo, at the request of the Commission and in accordance with its previous undertakings to cooperate fully with the inquiry, has agreed to the following:
>
> Concerning the case against Pierre Sané, Secretary-General of Amnesty International, the Government of Togo has decided to drop all proceedings against Pierre Sané and the other individuals involved in the allegations which are the subject of this inquiry, as soon as the Commission has begun its work in the field, i.e. in Lomé.
>
> Concerning the protection of witnesses and the Commission's sources, the Government of Togo has confirmed that no one will be harassed or prosecuted for having testified before or cooperated with the Commission of Inquiry."

9. Work of the Commission of Inquiry

The Commission held its first meeting in Geneva from 31 July to 4 August 2000. At this meeting, it adopted measures relating to its methods of work. It held a second meeting in Geneva from 18 to 22 September 2000.

It met twice in Togo, in November and December 2000. It was provided with full facilities for conducting its investigations and interviewing anyone it deemed necessary with a view to obtaining as much information as possible. The Commission also travelled to Benin and Ghana, although that country was not covered by its mandate.

Thus the Government of Togo, which had requested the establishment of the Commission of Inquiry, did everything in its power to help it to discharge its mandate while fully protecting its independence.

It should also be noted that the Government received no requests from the Commission of Inquiry concerning the identity of any particular person who might have been the victim of these alleged summary executions during the period of the Presidential election, which would certainly have been the case if such events had occurred.

10. Violation by the Commission of the adversarial principle

In a letter received on 12 December 2000, the Chairman of the Commission provided the Minister of Justice with a list of persons reported to have disappeared or to have been the victims of extrajudicial executions.

In a letter dated 20 December 2000, the Minister of Justice replied as follows:

"Sir, in reply to your letter of 10 December 2000, I would remind you that the competence of your Commission, which was established at the request of the Government of Togo, relates to the verification of the following point:

'In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin.'

Your mandate is therefore limited ratione temporis, ratione materiae and ratione loci.

I note, however, that your request does not fall within your competence. It is therefore impossible for me to meet it, which does not mean that Togo will refuse to provide the human rights bodies with full information concerning the wild allegations of executions and disappearances which you report.

But I must remind you of the purpose of your mission. Togo has been unfairly accused by Amnesty International of hundreds of summary executions during the period of the Presidential election; we are still awaiting a list of these hundreds of executions alleged by Amnesty International, and I find it astonishing that you have not provided us with a single document in this connection while at the same time exceeding your mandate.

Accept, Sir ...".

Nevertheless, the Minister of Justice applied on the same day to the Chairman of the National Human Rights Commission asking him to conduct an inquiry into these gratuitous accusations which exceed the Commission's terms of reference.

11. Inequality of treatment by the Commission in favour of the Union des forces de changement (UFC)

In a letter dated 19 November 2000, Chairman Amegah forwarded to the International Commission of Inquiry various documents relating to the Amnesty International affair.

These documents appear to have been transmitted by the Chairman of the Commission of Inquiry to the Union des forces de changement.

This action shows that the Commission's procedure is developing in keeping with the adversarial principle.

The Government notes, however, that this procedure is one-sided.

At no time was the Government provided with documents in support of Amnesty International's false accusations concerning so-called hundreds of deaths, such as the victims' identities, complaints lodged by the families, etc.

The Government can only conclude that Amnesty International has been unable to furnish any reliable documents incriminating the Government of Togo.

Having been seriously libelled by the Amnesty International report, the Government is entitled to be informed of the material put forward to support the outrageous charge that hundreds of people were killed.

The Government therefore made a request to the Commission, to the effect that any such document, if any existed, which it received from any party whatsoever, should be transmitted to the Government in order to guarantee that an adversarial procedure was followed. This has not been done.

It will be noted that the Commission has taken care not to make any reference in its report to the documents transmitted by the Government of Togo to the Commission which indicate an unethical relationship between Pierre Sané and Amnesty International, whereas, in order to clear Amnesty International's leaders, the Commission accuses the Togolese authorities of attempts to bribe unidentified persons. This is an unquestionable example of the Commission's bias.

Thus the rule of impartiality and equal respect for the rights of all parties, which is an essential component of the Commission's work, has been violated.

12. Submission of the Commission's report

The Commission transmitted its confidential report to the Government of Togo on 17 January 2001, without observing an adversarial procedure at any time. At no time did the Commission communicate lists of names of the hundreds of missing persons or of complaints lodged by their families.

13. Conclusions of the Government of Togo concerning the Commission's report

(a) The Government notes with satisfaction that at no time did the Commission provide any evidence supporting Amnesty International's wild allegations of so-called hundreds of victims. At no time were the victims' identities or their families' complaints submitted to the Government in accordance with an adversarial procedure, which would have certainly been the case if the victims had really existed. To avoid deciding against Amnesty International, the Commission states that it can neither confirm nor invalidate the allegations which were the purpose of its mission. This conclusion alone is enough to show that Amnesty International has provided no evidence in support of its allegations. It also shows that the Commission has not fulfilled its mandate.

(b) It is thus established that Amnesty International has irresponsibly, contemptibly and groundlessly libelled the Government of Togo.

(c) The Government of Togo notes that, in order to conceal the serious errors committed by Amnesty International, the Commission, at the initiative of its Chairman, who has links to Amnesty International, attempted to confuse the issue by exceeding its mandate and taking up wild and libellous allegations which are so ridiculous as to make the report devoid of all credibility.

By way of example: arbitrary abductions allegedly took place under the supervision of a captain, but what abductions were they and when was the person accused heard by the Commission? Rapes allegedly took place at the prompting of the Prime Minister, but what rapes and when was the Prime Minister given the opportunity to be heard in order to reject these wild allegations? What connection do these wild and libellous statements have with the Commission's mandate?

In actual fact, these gratuitous accusations, in disregard of the adversarial principle, which was fully used in the case of Amnesty International and the Union des forces de changement, demonstrate the complicity between Chairman Abakar, Amnesty International and the Union des forces de changement, and remove all credibility from this partial and one-sided report, which the Government of Togo accordingly deems inadmissible.

(d) The Government of Togo, which is committed to respect for human rights and freedoms, will not deviate from the principles it has always held. It will promote the rule of law and freedoms without allowing itself to be provoked by those who, like Gilchrist Olympio and his accomplices, make a pretence of respecting human rights, but who have repeatedly led violent attacks against the Togolese population, attacks which really have resulted in several hundred victims.

Annexe 2

MIDCO INTERNATIONAL (1988)

PREMIER HOUSE, SUITE 522, 10 GREYCOAT PLACE, LONDON SW1P 1SB
TEL : 0171 233 0202 FAX : 0171 222 0631 TELEX : 918475 MIDCO G

Londres, le 29Avril 1999

Monsieur PIERRE SANE
Amnesty International
1 Eastern Street
London WC1X 8DJ
United Kingdom

Cher Pierre,

Pour faire suite à notre dernier entretien, du reste fort constructif en termes de stratégie, je te prie de trouver ci-jointe, sous plis fermé, conformément à nos communs engagements, la somme de US dollars 300. 000 .

Avec la prochaine publication dans quelques jours, je suis convaincu de ton engagement à nos côtés pour combattre la vieille dictature de l'Afrique.

Je veux également te rassurer de ma disponibilité à t'apporter l'aide nécessaire dans le cadre de ton combat pour la libération de la Casamance.

Je te ferai parvenir par mon collaborateur Charles QUIST, la somme de US dollars deux cents mille, lors de ton prochain séjour à ACCRA .

Comme convenu, retournes-moi la présente copie, par mesure de confidentialité, portant le code prévu pour confirmation.

Fraternelles amitiés.

Pole 13

G. S. Olympio

MIDCO INTERNATIONAL (1988)

PREMIER HOUSE, SUITE 522, 10 GREYCOAT PLACE, LONDON SW1P 1SB
TEL : 0171 233 0202 FAX : 0171 222 0631 TELEX : 918475 MIDCO G

Londres, le 17 Mai 1999

Monsieur PIERRE SANE
ACCRA

Cher Ami,

Reçois ici mes félicitations pour les dommages créés au gouvernement togolais avec la publication de votre dernier rapport sur les droits de l'homme au Togo.

Tu trouveras comme prévu dans le plis fermé ci-joint la somme de US $ 200.000.

Par précaution, vérifies le nom du porteur de la présente qui se nomme CHARLES QUIST .

Ne pas oublier le code comme précédemment.

Sincères Amitiés.

G. S. Olympio

POK 01

Annex 3

Strokes & Slants

Handwriting Services

Forensic Document Examination

January 12th 2001

For the Attention of
Fred Alston

It is of my opinion that the documents in question are all signed by the same person, my findings are as follows:

Letters dated 17 May 1999 and April 29 1999 are signed by the same person.

I based my findings on the examination of Xeroxed copies.

Beverley East. QDE
Handwriting Examiner

1200 G Street, NW Ste 800 * Washington D.C. 20005 * Tel (202) 434 8767 * Fax (202) 434 8707
E-mail: Strokes444@aol.com Website: www.writeanalysis.com

UNITED
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E

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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 9 of the provisional agenda
Sub-Commission on the Promotion
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Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Letter dated 6 February 2001 from Mr. Vincent Del Buono, Deputy Secretary General of Amnesty International, addressed to the United Nations High Commissioner for Human Rights

GE.01-11621 (E)

In response to your letter of 23 January 2001, Amnesty International is pleased to submit the following comments on the final report of the International Commission of Inquiry for Togo.

1. Publication of the report of the International Commission of Inquiry

Amnesty International very much welcomes the fact that the International Commission of Inquiry was able to conclude its work despite the difficulties encountered. In line with the Commission's first recommendation and as a matter of principle regarding all international commissions of inquiry, Amnesty International strongly urges that the report be made public.

2. Persistence of gross human rights violations and impunity

Amnesty International notes the key conclusion of the International Commission of Inquiry that during 1998, the year to which the Commission was mandated to limit its inquiry, there was a situation of systematic violations of human rights in Togo and that allegations of extrajudicial executions, "disappearances", torture, arbitrary arrest and rape should be further investigated and those responsible brought to justice. Amnesty International has long denounced the recurrence of gross human rights violations and the persistence of a situation of impunity in Togo, calling repeatedly on the Togolese authorities, in correspondence and meetings with them in the country and abroad, to redress this situation. However, the Togolese authorities have persistently failed to end such violations and bring those responsible to justice, even when calls for action have been made by Togo's own National Commission for Human Rights, as in 1991, when it concluded that security forces were involved in the killings of people whose bodies were found in the Bé lagoon.

Impunity in Togo has also been a central concern of the Human Rights Committee. When, in 1994, the Committee last reviewed the human rights situation in Togo since 1988, it concluded:

> "The Committee deplores the large number of cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary or unlawful detention committed by members of the army, security or other forces during the period under review. It is deeply concerned that those violations were not followed by any inquiries or investigations, that the perpetrators of such acts were neither brought to justice nor punished and that the victims were not compensated."

The 1994 conclusion of the Human Rights Committee is confirmed by the International Commission of Inquiry for 1998 and still stands today: there is a long-standing pattern of impunity for gross human rights violations in Togo. Noting that an escalation of violations took place in the context of the national parliamentary elections of 1998, Amnesty International fears that such an escalation may recur again in the context of the next elections due in October 2001. Amnesty International fully endorses the Commission's recommendation that perpetrators of violations must be brought to justice both to ensure there is no impunity for past violations and to deter future ones. We also wish to highlight the following.

3. Proper judicial investigation and international monitoring

Given the persistence of the situation of impunity and the tactics of intimidation of human rights defenders and others, as documented extensively in the Commission's report and elsewhere, the question must be asked whether a national judicial investigation, as recommended by the Commission, will be able to establish the facts and ensure that perpetrators are brought to justice. Amnesty International stresses the need to ensure that any such judicial investigation, if established, is conducted strictly in accordance with relevant international standards, notably the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the United Nations General Assembly in 1989, and the *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (United Nations, 1991). It is particularly important to ensure that any such investigation is fully resourced and has the authority to compel officials to testify (Principle 10). Its members should be chosen for their recognized impartiality, competence and independence (Principle 11) and complainants, witnesses and those conducting the investigation and their families must be effectively protected from any form of intimidation (Principle 15). Amnesty International believes that such an investigation would greatly benefit from international judicial and other experts among its members.

While Amnesty International regrets that the Commission did not benefit from expert support such as that of forensic pathologists and aviation experts, it welcomes the Commission's recommendation that such experts be sent to the area as soon as possible, including a team of pathologists to undertake exhumations in Togo and Benin. These further investigations should be carried out promptly and in accordance with international standards, notably the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (see above) and the 1995 Guidelines for the conduct of United Nations inquiries into allegations of massacres. The authorities in Togo and Benin should provide full cooperation. The report of these investigations should be made public.

Amnesty International welcomes the recommendation that the Commission on Human Rights appoint a special rapporteur on the human rights situation in Togo and calls on the Commission on Human Rights to implement this recommendation immediately.

Amnesty International also welcomes the recommendation that the relevant thematic Special Rapporteurs of the Commission on Human Rights and the African Commission on Human and People's Rights visit Togo and Benin, and reiterates its call to the two Governments to invite the relevant Special Rapporteurs and also the Working Group on Enforced or Involuntary Disappearances. Their reports should make specific recommendations for the prevention of any such violations in future and be made public.

4. Protection of witnesses

Amnesty International shares the concern of the International Commission of Inquiry about the protection of witnesses and others who have collaborated with the Commission and welcomes the efforts so far by it to ensure such protection. Amnesty International believes that ensuring adequate protection against any reprisals is a matter of the utmost urgency. As the

Commission itself experienced, the Togolese authorities have resorted repeatedly to attempts at intimidating and bribing witnesses to give wrongful testimony or to refrain from testifying to it. In the course of the Commission's visit to Togo and neighbouring countries, Amnesty International has been contacted by people who intended to give evidence to the Commission or did so and reported having been the target of intimidation. Two fishermen from the coastal region of Benin who testified to the Commission have reported being threatened in Benin. Two other people who also had contacts with the Commission have since left Togo fearing for their safety.

In Amnesty International's view, an effective protection programme for all those who have been involved with the Commission and indeed for anyone who has been working on human rights or is related to victims requires a specialized, dedicated United Nations presence in Togo to be deployed as soon as possible with a mandate to also cover any such persons in Benin and Ghana.

5. Protection of human rights defenders

Amnesty International remains concerned that the charges against human rights defenders in the country and abroad, including the organization's Secretary-General, do not appear to have been dropped. It is the organization's understanding that the current legal situation following the Commission's intervention with the Togolese authorities is one of temporary suspension of criminal proceedings, which may resume at any time without the need for further evidence. Amnesty International believes that the Togolese Government should ensure that these proceedings are properly and definitively dropped.

The Togolese authorities should also put an end to the use of defamatory statements aimed at discrediting or intimidating human rights work, such as the letters purportedly written by the leader of the *Union des forces du changement* (UFC) to Amnesty International's Secretary General and referred to in paragraph 17 of the Commission's report. Amnesty International's Secretary General has not received any such letters nor the bribes referred to in them. The person alleged to be the author of the letters has stated that they are a fabrication and has reportedly filed a complaint in the courts about them.

6. The international community

Amnesty International appeals to governments to assist the United Nations and the Organization of African Unity with the provision of expert personnel and financial support to ensure they can implement these recommendations, first and foremost those relating to the protection of witnesses.

Amnesty International also appeals to those countries engaged in the transfer of military, security or police equipment or capability which contribute to the perpetration of human rights violations in Togo to end such transfers without delay.

Yours sincerely,

(Signed) Vincent Del Buono
Deputy Secretary General

UNITED
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Economic and Social
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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Agenda item 9
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Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT TERRITORIES; REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

GE.01-11976 (E)

Letter dated 9 March 2001 from the Deputy Secretary-General of Amnesty International addressed to the United Nations High Commissioner for Human Rights*

In your letter of 26 February 2001, you transmitted to us the comments of the Government of Togo concerning the report of the Organization of African Unity/United Nations International Commission of Inquiry for Togo.

Since then, intimidation of witnesses has continued, as indicated in our report (attached)**. Since the beginning of 2001, Amnesty International has identified at least 10 cases where persons living in Togo, Ghana and Benin have been harassed by the Togolese security forces or by persons close to the Government of Togo, some for having approached the International Commission of Inquiry. All have had to flee the place where they had been living.

Moreover, it now appears that the letter of the handwriting expert, attached to the comments of the Government of Togo, is a forgery, as are the two letters attributed to Mr. Gilchrist Olympio. The expert, Ms. Beverley East, was contacted by the lawyers hired by Amnesty International, and replied to us as follows:

"... this letter is not mine.

(1) It is not addressed to the person with [to] whom I originally addressed it to.

(2) It is not signed by me.

(3) It is not on my letterhead."

---

* On 9 March 2001, the High Commissioner for Human Rights received a letter from the Deputy Secretary-General of Amnesty International concerning the report of the International Commission of Inquiry for Togo. The letter was transmitted to the Secretaries-General of the United Nations and the Organization of African Unity. The letter is being made available to the Commission on Human Rights at its fifty-seventh session.

The United Nations has reproduced the comments of both the Government of Togo (E/CN.4/2001/134/Add.1) and Amnesty International (E/CN.4/2001/134/Add.2) as received. By doing so, the United Nations takes no position on the veracity or otherwise of any of the allegations made therein.

** The report referred to is entitled "Togo: The time for accountability has finally arrived". AI Index AFR 57/006/2001, 28 February 2001. The report is available on the Amnesty International Web site (www.amnesty.org).

In view of the libellous implications for our Secretary-General of the letters attributed to Mr. Olympio, who stated that they were forgeries, it appears to us to be indispensable for this latest information to be given the same circulation as the report and its addenda. We ask you in particular to make it available to the Commission on Human Rights and to publish it on your Internet Web site: in our view the High Commissioner cannot knowingly continue to circulate documents which Mr. Olympio and Ms. East have stated to be forgeries, without simultaneously informing the members of the Commission and the public of the latest information received concerning their lack of authenticity.

(Signed): Vincent del Buono
Deputy Secretary-General

UNITED NATIONS **E**

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COMMISSION ON HUMAN RIGHTS
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and Protection of Human Rights
Fifty-third session
Item 6 of the provisional agenda

CONTEMPORARY FORMS OF SLAVERY

Report of the Secretary-General on the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, submitted pursuant to Sub-Commission resolution 1998/19

CONTENTS

Page

Introduction 2

REPLIES RECEIVED FROM GOVERNMENTS

Guatemala 3

Japan 10

Russian Federation 23

GE.01-13901 (E) 250501 310501

Introduction

1. The Commission on Human Rights adopted the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography in its resolution 1992/74 and requested the Sub-Commission to submit to it every two years a progress report on the implementation of the Programme of Action by all States.

2. In its resolution 2000/19, the Sub-Commission requested the Secretary-General to invite all States to inform the Working group of measures adopted to implement the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, the Stockholm Declaration on Commercial Exploitation of Children and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and other related developments and report thereon to the Sub-Commission at its fifty-third session and to the Commission at its fifty-eighth session.

3. In order that the Working Group might examine this matter at its twenty-fourth session, the Secretariat, on 15 December 2000, sent notes verbales to Governments requesting the desired information. As of 7 May 2001, replies had been received from Guatemala, Japan and the Russian Federation.

REPLIES RECEIVED FROM GOVERNMENTS

Guatemala

[Original: Spanish]
[2 April 2001]

1. The State of Guatemala is aware that the commercial sexual exploitation of children and young people and the exploitation of their labour are social problems that inhibit children's and young people's full development and therefore constitute a gross violation of their human rights, particularly in the context of various patriarchal customs that persist even in a multilingual, multi-ethnic and multicultural society. The State has therefore taken administrative measures to prevent and eradicate these practices.

2. According to the latest (1994) census, children and adolescents under the age of 18 make up 50 per cent of the population, and steps to eradicate the problem have therefore been taken in the areas of education, health and labour.

3. The following are examples of the progress that has been made in providing comprehensive protection for children and young people in these areas in the last 10 years:

4. In terms of health, infant mortality rates have fallen by 38.4 per cent, from 73 per 1,000 live births to 45 per 1,000. Mortality among the under-5s has fallen from 110 per 1,000 live births to 59 per 1,000.

5. With regard to immunization against preventable diseases, coverage has increased from 66 per cent to 88 per cent for diphtheria-pertussis-tetanus (DPT) and from 62 per cent to 93 per cent for tuberculosis (BCG). The incidence of poliomyelitis has been minimized and in the last five years measles has been prevented.

6. According to Ministry of Education data, education progressed during the 1990s, with net enrolment rates in pre-primary education rising from 17.29 per cent in 1990 to 32.83 per cent in 1999 and in primary education from 69.24 per cent to 81.7 per cent over the same period.

7. Nevertheless, there are still obstacles to be overcome in order to achieve comprehensive protection for children and adolescents. Social action strategies and programmes have been included in the economic and social services administration plans for 2000-2004, in which the present Government has given priority to issues relating to children and adolescents.

I. MEASURES TAKEN TO IMPLEMENT THE PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN

8. A recent survey carried out by the Office of the Children's Ombudsman, established in 1992 in the Office of the Human Rights Procurator, shows that children who are subject to trafficking are typically children abandoned by their parents, children of single mothers with

insufficient financial means to maintain them and children who have been abducted for illegal adoption. The children are characteristically also aged 7 and upwards, and mostly of Honduran, Salvadoran and Guatemalan nationality and of low social status.

9. According to the Office of the Children's Ombudsman of the Office of the Human Rights Procurator, cases of child trafficking are by their very nature rarely reported. They are sometimes discovered in the course of searches carried out by the police or court authorities in night hostels or places where the victims are held.

10. In order to deal with this problem, a Metropolitan Procurator-General's Office for Children was established in the Public Prosecutor's Office and a Minors' and Disappeared Persons' Unit was established in the National Civil Police Criminal Investigation Service. These bodies are responsible for rescuing and protecting children who have been sold.

11. According to the December 2000 report of the United Nations Verification Mission in Guatemala (MINUGUA) on the situation of children and adolescents under the peace process in Guatemala, the Office of the Minors' Procurator of the Office of the Procurator-General is currently implementing a "rescue programme" to protect children and young people who are victims of ill-treatment or in risk situations. Rescues may be carried out on the basis of reports by the competent authorities or of anonymous complaints. A team is sent to rescue the child who is at risk or in danger, who is then placed at the court's disposal pending a resolution of the case.

12. The issue of the sale and trafficking of children prompted Guatemala to sign the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 7 September 2000. The Protocol was referred for consultation to the bodies legally mandated to work on children's rights, with a view to its presentation to Congress for ratification.

II. MEASURES TAKEN IN RELATION TO CHILD PROSTITUTION, CHILD PORNOGRAPHY AND THE STOCKHOLM DECLARATION ON COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

A. Measures against child prostitution and child pornography

13. The measures taken to prevent child and youth prostitution include provisions on the problem in the Penal Code, chapter V, which deals with the corruption of minors; according to article 188, "Anyone who in any way promotes, facilitates or encourages the prostitution or sexual corruption of a minor, whether or not the victim consents to participate in or watch sexual acts, shall be liable to two to six years' imprisonment".

14. Article 189 deals with aggravated corruption:

> "The penalty mentioned in the preceding article shall be increased by two thirds in any of the following circumstances: (1) if the victim is aged under 12; (2) if the act was carried out for financial gain or at the request of a third party; (3) if deception, violence or abuse of authority were used in committing the act; (4) if the corruption was a

result of perverse, premature or excessive sexual acts; (5) if the perpetrator is the victim's parent, sibling, teacher or other person with responsibility for education, or his guard or warden; (6) if the acts mentioned in the preceding article were carried out repeatedly".

15. Article 190 deals with incitement through promises or compact:

"Anyone who, by means of promises or compact, with or without the appearance of legitimacy, incites or causes the prostitution or sexual corruption of a minor, shall be liable to one to three years' imprisonment".

"Anyone who, for any reason or under any pretext, assists or supports the continuing prostitution or sexual corruption of a minor or the continuing presence of a minor on premises intended for such purposes, shall be liable to the same penalty".

16. Chapter VI of the Penal Code covers trafficking in women and the exploitation of prostitution.

17. Article 191 deals with sex trafficking:

"Anyone who, for financial gain or at the request of a third party, promotes, facilitates or encourages prostitution by persons of either sex, shall be liable to a fine of 500 to 2,000 quetzals".

"Anyone who carries out the activities referred to in the preceding paragraph for his own benefit shall be liable to a fine of 300 to 1,000 quetzals".

18. Article 192 deals with aggravated sex trafficking:

"The penalties mentioned in the preceding article shall be increased by one third in the following circumstances: (1) if the victim is a minor; (2) if the perpetrator is a relative of the victim, as defined by law, or the victim's teacher or other person with responsibility for his education, or his guard or warden; (3) if deception, violence or abuse of authority were used in committing the act".

19. Article 193 deals with the exploitation of prostitution:

"Anyone not covered by the preceding articles of this chapter but who lives wholly or partly at the expense of a person or persons who practise prostitution, or from the proceeds of prostitution, shall be liable to one to three years' imprisonment and a fine of 500 to 3,000 quetzals".

20. Article 194 deals with trafficking in human beings:

"Anyone who in any way promotes, facilitates or encourages the entry of women to, or their exit from, the country, for the purposes of prostitution shall be liable to one to three years' imprisonment and a fine of 500 to 3,000 quetzals".

"Anyone dealing with men in the same way as mentioned in the preceding paragraph shall be liable to the same penalty".

"The penalties shall be increased by two thirds in any of the circumstances referred to in article 189 of this Code".

21. Article 195 deals with obscene displays:

"Anyone who performs obscene acts in any public place or place that is open to the public or exposed to public view shall be liable to a fine of 300 to 5,000 quetzals".

22. Article 196 deals with obscene publications and performances:

"Anyone who publishes, produces or reproduces obscene books, writings, images or objects, or who exhibits, distributes or circulates the same, shall be liable to a fine of 300 to 5,000 quetzals".

23. Two aspects of Guatemalan society have limited the application of this criminal legislation in Guatemala: first, such activities are seen by Guatemalans as a normal part of male culture, which makes it difficult to eliminate such sexist patterns of behaviour; secondly, people are inhibited by society's indifference to the issues from exercising their right to complain about these activities to the competent bodies.

24. In an analysis of the problem of sexual exploitation, the Global Network to End Child Prostitution, Pornography and Trafficking (ECPAT-Guatemala), which is a member of the coordinating group of the Multisectoral Coordinating Committee on the Preparation of a National Plan for Preventing the Exploitation of Child Prostitution, concludes that "while the legislation penalizes those who incite or prostitute minors, it also covers child sex tourism and child pornography, although these terms are not currently mentioned".

25. The same analysis points out that "the penalties for the perpetrators of these offences are relatively light. While it is agreed that the severity of a punishment does not eradicate an offence, nevertheless, if one of the objectives of legislation is to prevent an offence being committed, a just punishment must be consistent with the seriousness of the offence".

26. One of the priorities of the National Plan is therefore to amend the criminal law so that it reflects Guatemala's social and economic situation.

B. Measures taken in respect of the Stockholm Declaration

27. At the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in August 1996, Guatemala undertook to implement measures on prevention and intervention contained in the Agenda for Action against Commercial Sexual Exploitation of Children.

28. The Governments represented at the World Congress committed themselves to working with civil society to prepare national plans of action in implementation of the Agenda for Action.

29. In the first stage of preparation of the National Plan of Action, two international NGOs, Rädda Barnen of Sweden and Red Barnet of Denmark, provided technical support to the Office of the Human Rights Procurator in October 1996, for publicizing the Declaration and the outcome of the Congress throughout Guatemala.

30. In November 1996, the Office of the Children's Ombudsman of the Office of the Human Rights Procurator brought government and non-governmental organizations together in a first attempt to coordinate agencies and institutions in preparing the Plan.

31. Between 1997 and 1999, government bodies and NGOs working with promotion and protection of children's rights carried out research into the social problem of commercial sexual exploitation of children, with the aim of sensitizing and raising awareness among the Guatemalan public.

32. In the course of implementation of the commitment made at the World Congress against Commercial Sexual Exploitation of Children and in response to requests from a number of civil society organizations involved with child and youth issues, the Office of the Procurator-General contacted other institutions seeking a solution to the problem in Guatemala, with a view to helping to prepare the National Plan.

33. In January 2000, as part of the interagency and inter-institution coordination process, the Office of the Procurator-General brought together government and non-government agencies, religious institutions, universities and international agencies in order to agree a methodology for preparation of the National Plan. It was at that point that multisectoral work got under way to prepare the Plan, which was intended to be inclusive and the product of consensus.

34. The work of preparing the Plan was shared between two groups, the Coordinating Group and the Consultative Group: the Coordinating Group was to carry out the basic work of compiling, structuring and preparing the Plan; the Consultative Group's task was to support and advise the Coordinating Group.

35. At the time of writing, a nationwide analysis of the problem has been completed on the basis of regional and theme-based seminars and workshops involving the authorities responsible for protecting and promoting children's rights.

36. The final stage will be to use the input from the regional and thematic seminars to prepare a final draft of the National Plan for presentation to the highest authorities in the country and for adoption as national policy.

C. Administrative measures to deal with sexual exploitation of minors

37. A number of administrative mechanisms are in place to deal with the problem of sexual exploitation of children and young people, including:

Social Welfare Department

38. A government department responsible for the care of children and young people, who are divided into three categories: (a) those needing care; (b) those with mental disabilities; and (c) those involved in criminal offences. There are currently two centres that focus on children's issues:

(i) The "Gorriones" re-education centre for girls, which cares for girls who have fallen victim to ill-treatment, have been abandoned or orphaned or have become street children or delinquents, by carrying out psychosocial studies and providing general education, job training and individual and group medical, psychological and social treatment, and by helping them to adapt to society;

(ii) The attorney unit centre, which carries out the procedures necessary to repatriate girls who are not of Guatemalan nationality.

Ministry of Health and Social Welfare

39. The government department responsible for public health policy; it includes a Prophylactic Unit, which deals with women aged over 18 and must refer girl victims of prostitution to a Juvenile Court for protection, in accordance with the Children and Adolescents Code, article 22.

Office of the Minor's Procurator of the Office of the Procurator-General

40. This Office has legal power to take action to rescue minors who are victims of prostitution and to take protective measures; it is also responsible for taking criminal proceedings against the perpetrator.

Office of the Children's Ombudsman of the Office of the Human Rights Procurator

41. This Office was established to give particular attention to children's problems and to ensure the promotion and defence of children's rights, in accordance with the provisions of the Convention on the Rights of the Child and the Constitution, by providing psychological counselling to children and adolescents who fall victim to this social evil.

Non-governmental and religious organizations

42. A number of non-governmental organizations are working to prevent and eradicate this problem by means of specific action to help girls who are victims of prostitution to recover physically, morally, emotionally and socially. They run sex education and reproductive health programmes and provide psychological support in cases of sexual abuse, as well as equality training.

43. In addition, there are two programmes designed to address the problem of girls in prostitution: "For Women Only", which is based in the capital and runs a programme for girls and young women who are or have been involved in prostitution; and the "Lourdes Hostel" teenage mother project, which aims to rehabilitate such mothers.

III. ACTION TO IMPLEMENT THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

44. On 7 September 2000, as a matter of State policy and in order to address the problem of prostitution, the President of Guatemala, on behalf of the State, signed the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; the Protocol has been referred to the appropriate bodies for consultation, with a view to ratification by Congress.

IV. MEASURES TAKEN TO IMPLEMENT THE PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR

45. According to the report for the 1990s to the fifth Ministerial Meeting on the Lima Accord, August 2000, prepared by the Department of Social Welfare with interagency support from the State, the total economically active population (EAP) of children aged 7 to 14 amounts to 151,494 (126,476 boys and 25,018 girls). The rural child EAP stands at 126,388 (109,351 boys and 17,037 girls). Allowing for under-reporting of informal labour, there could be an estimated 500,000 child workers in Guatemala.

46. Legislation protecting child and adolescent workers includes the Constitution, which sets forth minimum guarantees on remuneration for work (art. 103), and the Labour Code, title 4, chapter 2, "Special labour regimes". This legal framework, together with the Convention on the Rights of the Child and International Labour Organization (ILO) Convention No. 138, establish the minimum working age and exceptions.

47. A number of administrative and legislative measures have been taken to reinforce and develop international, constitutional and domestic legal standards.

48. At the eighty-seventh International Labour Conference, held in Geneva in June 1999, Guatemala signed ILO Convention No. 182, on the elimination of the worst forms of child labour, which establishes the activities that are considered the worst forms of child labour, including the sale and trafficking of children, forced labour, debt bondage and the procuring and offering of children for prostitution. With a view to adoption and subsequent ratification, the Convention was referred for consultation to the various State agencies responsible for protecting and promoting the rights of children and adolescents. The Convention is currently being considered for adoption by Congress.

49. In recent years, there has also been an increase in the number of NGOs in Guatemala working to promote the elimination of child labour and to defend and promote children's rights.

50. Another administrative measure taken to address the issue of child and adolescent labour was the establishment of the Juvenile Labour Protection Unit of the Ministry of Labour and Social Security, which is responsible for implementing the national policy on child and adolescent labour. This policy follows the guidelines in ILO Convention No. 138, which advocates the abolition of work for children aged under 12 and the total abolition of high-risk work.

51. Affirmative action in the area of labour was taken with the signing, in June 1996, of a memorandum of understanding between the Ministry of Labour and Social Security and ILO, committing Guatemala to adopting the strategies of the International Programme on the Elimination of Child Labour (IPEC).

52. In addition, the Ministry of Labour and Social Security has developed a National Plan for the Prevention and Elimination of Child Labour and the Protection of Adolescent Workers, in implementation of national and international labour standards for children and adolescents and for their full protection.

Japan

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Japan's Action Plan against Commercial Sexual Exploitation of Children

A. Investigations into the situation of the commercial sexual exploitation of children and clarifying the cause

1. The domestic situation and cause of the problem

1. Since the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children came into force on 1 November 1999 (passed into law on 18 May 1999), 60 per cent of the violations of the law uncovered by the law enforcement authorities have involved telephone clubs. Therefore, such clubs are the hotbeds of this kind of crime. About half of the child pornography cases uncovered under the law were committed on the Internet. Most of the Web sites on child pornography have remained closed since the enactment of the law. However, as some Web sites on child pornography have been opened secretly with tricky methods, the Government will continue to grasp the situation of the commercial sexual exploitation of children by analysing the specific cases of violations of the law that have been uncovered.

2. The Government has been fully informed of the number of cases where child guidance centres have provided counselling to victims of the commercial sexual exploitation of children since the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children came into force, through reports from such centres. There were 90 cases where child guidance centres provided counselling over the five-month period from

November 1999 to April 2000. The Government will continue its efforts to grasp the situation of such exploitation and to promote protection of the victims, depending on the damage they suffered.

2. The overseas situation and cause of the problem

3. It is difficult to correctly grasp the situation of Japanese people's involvement in child prostitution abroad. However, the Government will try to collect information on the problem by cooperating closely with relevant organizations, such as the International Criminal Police Organization and non-governmental organizations.

4. The Government will seek to actively support survey of the commercial sexual exploitation of children by the relevant international organizations, such as UNICEF, the United Nations Trust Fund for Contemporary Forms of Slavery, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the International Organization for Migration through providing financial support or information on the commercial sexual exploitation of children to these organizations.

5. In order to collect from NGOs that are active abroad as much information as possible on the situation and causes (poverty, gender discrimination, organized crimes and armed conflicts, etc.) of the commercial and sexual exploitation of children, the Government endeavours to establish a network with NGOs throughout the whole process of the Second World Congress Against Commercial Sexual Exploitation of Children, including its preparation and follow-up.

6. The Government will help NGOs' activities, such as the organizing of symposia and workshops on the commercial sexual exploitation of children, through various frameworks, such as "grass-root" small grant aid.

B. Prevention of the commercial sexual exploitation of children

1. Education for elementary school children

7. Article 26 of the Constitution stipulates, "All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free." In accordance with the provision, ordinary education is obligatory and free of charge. Foreign residents, who are not under this obligation, are able to study in public elementary and lower secondary schools by the instruction from boards of education if they or their parents wish. Therefore, the government has made basic education obligatory and free of charge regardless of races and nationalities.

2. Education on children's rights

8. School education requires appropriate education guidance and school management which pay due consideration to the rights of school children in line with the Convention on the Rights of the Child. In this regard, respect for fundamental human rights, the significance and role of international human rights laws and growth and character-building of children must be taught in social studies in elementary and lower secondary schools and modern society, politics,

economics and general home economics in upper secondary schools. Textbooks on these subjects specifically describe the Convention on the Rights of the Child. The Government will further promote education on fundamental human rights, including the rights of the child.

9. Lectures under the titles "The Convention on the Rights of the Child", "Human rights education" and "Gender equal society" are given during seminars for school teachers. The Government will make further efforts to promote respect for human rights in such ways.

10. The Government has organized seminars on the rights of the child for the staff of child guidance centres and child welfare facilities. The Government will continue to organize such seminars in order to promote respect for the rights of the child.

11. Public prosecutors offices have organized seminars for prosecutors which focus on, among other things, the enactment of the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children, and care for children and women. Public prosecutors offices will promote respect for the rights of the child by organizing such seminars.

12. The police have organized seminars on the rights of the child during general education classes at police schools and training sessions held at their workplaces. The police forces will promote respect for the rights of the child through such training sessions.

3. Prevention of the commercial sexual exploitation of children through education, such as sex education

13. The Government will improve the quality of teachers by organizing seminars for them on sex education and thereby improve sex education at school.

14. Schools will provide sex education suited to children's stage of development to deepen their scientific knowledge of sex, help them properly recognize the opposite sex based on the spirit of respect for life, respect for people and gender equality, and enable them to make their own judgement and take appropriate action.

15. Schools will develop children's ability to select information on their own initiative and help children to understand the negative aspects of an information-oriented society, thereby helping deepen children's understanding of the problems relating to the commercial sexual exploitation of children.

16. Schools should provide children with education on the prevention of drug abuse so that they can be strongly aware of the danger of drug abuse and drug related crimes and that they can recognize that drug abuse should not be done and permitted at present and in the future.

17. Schools will teach children the importance of being considerate to other people, help their understanding of the opposite sex, deepen their understanding of the importance of respecting the dignity of other people and the importance of their own and other people's lives, in an effort to develop their morality, ability to make proper judgement and enthusiasm for putting what they learn into practice.

18. The National Action Plan for the United Nations Decade on Human Rights Education, compiled in 1997, calls for the promotion of human rights education on every occasion, such as in school or with people whose occupations are closely related to human rights. The plan urges Japan to intensively tackle problems relating to the rights of the child, as well as those of women, elderly people and foreigners.

19. The Council for Human Rights Promotion in the Ministry of Justice submitted in 1999 a report on "basic matters concerning the comprehensive development of educational and promotional measures to enhance public mutual understanding of the concept of respect for human rights". The report underscored the importance of human rights education and promotion in schools, in society, in households, etc. The Law for Promoting Human Rights Education and Promotion, which calls for measures to promote human rights education and awareness-raising activities, was enacted in November 2000.

4. Enlightenment measures

20. When the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children came into force in November 1999, the police launched public relations and awareness-raising activities through various advertising media. They also provided, as one of the public relations and awareness-raising activities, relevant information on the cases they have uncovered of child prostitution and child pornography, with the aim of preventing children from falling victim to such crimes. The police will continue these activities.

21. The human rights organs of the Ministry of Justice have carried out various awareness-raising activities, such as holding lecture meetings and round-table meetings, broadcasting programmes on television and radio and distributing pamphlets and leaflets in order to raise public awareness of the importance of respecting human rights, including the rights of the child. With the aim of eliminating all kinds of discrimination, including discrimination against children, the human rights organs also carry out public awareness campaigns across the country during "Human Rights Week" (4-10 December), under the slogan "Protect the rights of children" as well as on "Civil Liberties Volunteers' Day" (1 June every year), including street campaigns and lectures. The Ministry will continue these activities and contribute to preventing infringement of the rights of the child.

22. The Ministry also has appointed Volunteers for Children's Rights Protection who specifically deal with human rights problems involving children. They provide counselling at children's counselling offices and on hotlines, "Children's Rights Dial 110," in an effort to enhance public concern about the rights of the child.

23. In order to help youths grow soundly, the Government launches, every July, a nationwide campaign entitled, "Month for intensively talking about the problems of juvenile delinquency" and, every November, the "Month for helping youths grow soundly". During these months, the Government carries out intensive public relations and awareness-raising activities, such as the promotion of activities to improve the harmful environment for youths.

24. Upon the enactment of the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children, the Government issued booklets in Japanese

and English, which set out the purpose and details of the law, and distributed them throughout the world through Japan's diplomatic establishments overseas in an effort to notify people all over the world of the spirit of the law. If new legislation regulating the commercial sexual exploitation of children is enacted or the existing law is amended, the Government will notify people all over the world of the details of the legislation through Japan's diplomatic establishments overseas and on the Web site of the Ministry of Foreign Affairs (http://www.mofa.go.jp/).

25. The Government will, in cooperation with experts on problems of children, organize lectures in order to introduce the Second World Congress Against Commercial Sexual Exploitation of Children and other efforts being made by Japan to combat the commercial sexual exploitation of children.

26. The Government will utilize e-mail to invite opinions on the commercial sexual exploitation of children from NGOs and the general public. The Government will also make full use of mailing lists and the Internet to provide information on the situation of the commercial sexual exploitation of children in the world to the general public.

27. The Government will, through the Ministry of Foreign Affairs' official Web site, provide information on the National Action Plan against the Commercial Sexual Exploitation of Children and a summary of discussions at the Second World Congress Against Commercial Sexual Exploitation of Children. The Government will provide updated information on the progress made by Japan in efforts to combat the commercial sexual exploitation of children even after the conference.

28. As part of the follow-up to the first World Congress Against Commercial Sexual Exploitation of Children, the Government, in cooperation with NGOs, produced posters appealing for the elimination of child prostitution and child pornography and distributed them throughout Japan. The Government also distributed the posters to Japan's diplomatic establishments overseas, mainly those in Asia, and put them up in the consular offices in an effort to promote awareness-raising activities. Furthermore, the Government carried the documents adopted at the first World Congress Against Commercial Sexual Exploitation of Children on the Web site of the Ministry of Foreign Affairs to promote public relations on the results and significance of this Congress.

29. As to the Second World Congress Against Commercial Sexual Exploitation of Children, the Government, in cooperation with NGOs, also will promote public relations on the significance and purpose of holding this Congress, both in Japan and abroad, through producing pamphlets, organizing symposiums and other relevant events, and making use of newsletters and public relations media in Japan and abroad.

30. The Government will cooperate with NGOs to promote public relations and awareness-raising activities at each stage of the Second World Congress Against Commercial Sexual Exploitation of Children, from preparation, through the Congress itself to its follow-up, in order to raise further public awareness of the commercial sexual exploitation of children.

31. Japan recognizes that it is important to continue the efforts it has made since the Kyushu-Okinawa Summit to promote dialogue and partnership with NGOs and build up cooperative relations with NGOs that are expected to play a major role in the international community. Based on this recognition, the Government established the NGO Liaison Centre within the Ministry of Foreign Affairs in October 2000. The Government will strengthen its partnership with NGOs which combat the commercial sexual exploitation of children through the activities of the centre.

5. Cooperation with news media

32. The Government will encourage news media to actively participate in the Second World Congress Against Commercial Sexual Exploitation of Children from its preparatory stage in order to deepen their understanding of the various problems relating to the commercial sexual exploitation of children.

6. Cooperation with relevant industries

Child prostitution

33. When the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children came into force in November 1999, the Ministry of Transport (currently the Ministry of Land, Infrastructure and Transport) issued directives to travel industry organizations to inform their member companies of the law and provide them with information on the law. The Ministry also established a liaison council with the travel agencies on awareness-raising activities concerning the law, in order to raise awareness among travel agents of the law. Travel agency associations also organized seminars for chief travel organizers (those who manage and supervise the sale of tours and tickets at branches of travel agents), seminars on the management of travel plans (for those who accompany travellers to ensure proper services are provided to the customers). In these seminars, the industry organizations instructed travel agents not to get involved in organizing prostitution tours and to prevent their customers from getting involved in child prostitution during their tours. Furthermore, the travel agency associations and the International Tourism Promotion Association provided information on the law on their home pages and through their fax services, distributed pamphlets and placed articles about the law in their newsletters in a bid to eliminate prostitution tours. The Ministry of Land, Infrastructure and Transport will make efforts to promote such activities in cooperation with the travel industry associations, the International Tourism Promotion Association and other tourism-related organizations.

Pornography

34. The Government will support the efforts being made by Internet service providers (ISP) and other industries to combat the spread of illegal and harmful information on child pornography on the Internet. Specifically, the Government will disseminate model contract clauses embodying guidelines for self-restraint drawn up by the industries, including ISP, and establish rules, which include the responsibility of ISP and other relevant businesses.

35. The Government will consider a desirable system to respond to complaints and consultations on illegal and harmful information on the Internet, such as child pornography, and establish such a system.

36. The movie, video, publication, video game and other industries have made their own efforts to prevent the commercial sexual exploitation of children. The Government will support these efforts made by the relevant industries.

37. The Government is developing and promoting a rating and filtering system on the Internet in order to eliminate illegal and harmful contents, such as child pornography, and share a database on harmful contents with Internet-related industries.

7. Measures to address the root causes of commercial sexual exploitation of children in foreign countries (measures to eradicate poverty, etc.)

38. The Government will support the implementation of projects to protect children's health, improve their living environments, provide basic education and prevent child labour by UNICEF, UNIFEM, ILO, IPEC and the United Nations Trust Fund for Human Security through financial contributions, bearing in mind the targets of ensuring children's survival, growth and protection set in the World Declaration on the Survival, Protection and Growth of Children and the Action Plan adopted at the World Summit for Children in 1990. Furthermore, in line with the Dakar Framework for Action adopted at the World Education Forum in 2000. The Government will support the provision of basic education to children through collaboration with donors, international organizations and NGOs within a framework centred on UNESCO.

39. In accordance with Japan's Medium-term Policy on official development assistance (ODA) adopted in 1999, the Government has actively supported developing countries to eliminate poverty and achieve social development as priority areas. Especially, the Government has extended assistance to developing countries to help them overcome population problems and problems relating to AIDS, women and the family by continuing the Women in Development (WID) initiative. Japan has also actively supported developing countries in the field of social development through bilateral assistance. In particular, the Government has extended its assistance mainly through grant aid and technical assistance in the field of medical care, health and education that contributes extensively to the promotion of the health, welfare and education of children. The Government will continue to provide assistance in these fields.

40. As part of Japan's efforts to support NGO activities, the Government has made use of the subsidy system for NGO projects and grant aid for grass-root and other activities to extend financial assistance to NGOs that are carrying out grass-root projects in the medical care, health and education fields aimed at contributing extensively to the promotion of the health, welfare and education of children.

41. In order to respond to those who seek advice and inquire about NGO activities, the Government launched a system of NGO counsellors in fiscal 1999. Japan will continue to make full use of these systems to support Japanese NGOs' activities.

8. Government reports to the Committee on the Rights of the Child and response to the Optional Protocols to the Convention on the Rights of the Child

42. The Government will compile an official report on the implementation of the Convention on the Rights of the Child, taking into consideration information and opinions provided by NGOs, and submit it to the Committee on the Rights of the Child. The Government, through such a review process, seeks to protect and promote the rights of the child, including their protection from sexual abuse, and prevent the commercial sexual exploitation of children.

43. Japan participated in the drafting of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict, adopted by the General Assembly at its fifty-fourth session on 25 May 2000. Japan will continue to give careful consideration to the discussions in the United Nations and other relevant forums concerning international instruments on the protection and promotion of the rights of the child.

44. The Government will also give necessary consideration to ratifying both Protocols, from the viewpoint of protecting and promoting the rights of the child.

C. Law enforcement

1. Strengthening the system to punish properly those involved in actions relating to the commercial sexual exploitation of children

45. The Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children stipulates that a person who is involved in child prostitution, who sells child pornographic products or who transports foreign children to another country for the purpose of forcing them into prostitution shall be punished with imprisonment with labour or a fine. Japanese nationals who commit such crimes abroad shall be punished with the same penalty. The Government will ensure appropriate application of these provisions and adequate sentencing.

46. A provision prohibiting child prostitution and child pornography has been added to the Anti-Organized Crime Law and, as a result, punishment, confiscation and forfeiture for crimes involving the commercial sexual exploitation of children has since been strengthened. The Government will ensure appropriate application of these provisions and adequate sentencing.

47. The police have improved and strengthened their investigations to thoroughly crack down on crimes involving child prostitution and child pornography and protect children from such crimes. Prefectural police departments have established a task force, a project team or a similar organization comprising officers belonging to the juvenile, entertainment business, criminal investigation and high-tech crime prevention divisions, such as the Task Force for Preventing Child Pornography Related Crimes. Sectionalism has been eliminated from these organizations by strengthening cooperation between these different divisions. The prefectural police forces will continue to strengthen their investigations and crack down on such crimes.

48. The National Police Agency established the Office for the Protection of Juveniles in the Juvenile Division in April 1999 in order to improve and strengthen its efforts to protect teenagers. The Office has since played a leading role in giving instructions to prefectural police forces across the country on the enforcement of the law concerning punishment of child prostitution and pornography and protection of children.

49. The police have actively invoked the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children and other legislation to thoroughly crack down on crimes involving child prostitution and child pornography. Based on the recognition that telephone clubs are hotbeds for crimes involving child prostitution, the police will give instructions relating to and crack down on their business activities and consider tightening the regulation of their business in efforts to stamp out crimes involving child prostitution at such clubs. Furthermore, the police will give instructions to and crack down on sex-related businesses, such as massage parlours.

50. Since some child pornography Web sites have been opened secretly using tricky methods, the Government will continue to collect information on such crimes in cooperation with relevant organizations and non-governmental organizations and charge the owners of such sites with display of child pornography and distribution of child pornography, etc.

2. International cooperation in investigations and exchange of information

51. In order to effectively crack down on crimes involving the commercial sexual exploitation of children across national boarders, the authorities of the country where such crimes are committed or of which the culprits are nationals must properly indict and punish the culprits. The Government will step up its efforts to promote and strengthen international cooperation for international investigations and extradition of criminals.

52. Under domestic legislation, the Government can provide reciprocal legal assistance in response to requests by a foreign Government for such assistance for international investigations and the extradition of criminals under certain conditions, regardless of whether Japan has concluded a relevant treaty with the country concerned or not. Japan will continue to respond to such requests on the basis of the legislation.

53. The United Nations Convention against Transnational Organized Crime, adopted by the General Assembly on 15 November 2000, is aimed at establishing an international legal framework for promoting cooperation in efforts to prevent and combat transnational organized crime. It provides for a framework for the extradition of criminals and international cooperation in investigations and mutual cooperation between judicial authorities. As Japan signed the convention, on 12 December 2000, the Government will proceed to prepare for its ratification as soon as possible, including examination of necessary domestic legal measures.

54. Furthermore, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted by the United Nations General Assembly at its fifty-fifth session) - along with the above-mentioned convention - is aimed at establishing a

universal effective legal framework for promoting cooperation in preventing and combating trafficking in persons of a transborder nature, including women and children, and for protecting victims of trafficking. The Japanese Government will also proceed to the necessary examination of the Protocol bearing in mind its purpose.

55. The Immigration Bureau of the Ministry of Justice has regularly exchanged information with the police and other investigative authorities on violations of the Immigration Control and Refugee Recognition Act. As soon as it obtains information on persons involved in the commercial sexual exploitation of children, it provides the information to the investigative authorities or jointly takes action on such cases. The bureau will continue its exchange of information and cooperation with the investigative authorities to prosecute violators.

56. The customs administration is authorized to control the cases on such condition that child pornographic products found at customs fall under clause 1-4 (articles that injure public security or morals), article 21 of the Customs Tariff Law. Since 2000, Customs have had to report all cases of child pornographic products found at customs to the police, whether or not they come under the above-mentioned clause. It is expected that this procedure will help strengthen control over both imported and exported child pornography.

57. It is important for the police to strengthen cooperation with foreign police authorities in investigations into child prostitution and other crimes committed abroad. Therefore, the police will dispatch officers abroad whenever necessary to inform foreign police authorities of the provisions of the law concerning punishment of child prostitution and pornography and protection of children. The police are also building up a system under which they can promptly obtain specific information from foreign police authorities and the International Criminal Police Organization. The police will continue efforts to strengthen cooperation with overseas police authorities.

58. The law enforcement authorities of Japan have also been cooperating with foreign law enforcement authorities by asking them through diplomatic channels for mutual cooperation in bringing criminal charges against violators. We will continue to actively investigate crimes such as child prostitution committed abroad by Japanese nationals.

3. Helping developing countries to strengthen their law enforcement authorities

59. The Government will extend financial support to the United Nations Crime Prevention Centre for technical cooperation projects with the aim of helping the Centre to crack down on crimes, bearing in mind General Assembly resolution 55/25 and article 30 of the United Nations Convention against Transnational Organized Crime (implementation of the convention through economic development and technological assistance), inter alia.

60. The Government will seek to cooperate with developing countries in Asia to strengthen their criminal and judicial systems and immigration control, for example by providing training sessions organized by the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) to government officials in Asian countries.

61. Japan has regularly held various seminars and symposiums, such as the Seminar on Immigration Control (held annually since 1987), the Seminar on Document Examination (held annually since 1995), the Seminar on Prevention of Forgery and Falsification of Passports (held annually from 1997 to 1999) and the Seminar on Data Processing System Development for Immigration Control. Through these seminars and symposia, Japan will step up efforts to help developing countries to strengthen their enforcement of laws for the prevention of crimes. (In addition to the above-mentioned seminars and symposia, Japan hosted the Asia-Pacific Symposium on Trafficking in Persons and the Asia-Pacific Law Enforcement Conference against Transnational Organized Crime in January 2001 with the participation of officials of the law-enforcement authorities mainly from the countries in the Asia-Pacific region.)

62. Japan is fully aware of the necessity of implementing measures in cooperation between the authorities concerned and with ordinary citizens, including NGOs, to care for child victims, and of promoting cooperation with these groups.

D. Rehabilitation and reintegration

1. Consideration for child victims in the judicial procedure

63. The Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protection of Children requires officials engaged in investigations and trials of violations of the law to take measures to pay close attention to the rights and characteristics of child victims. The Government will ensure appropriate application of this provision.

64. In order to ease witnesses' mental and psychological burden in providing testimony in court, a law allowing witnesses to be shielded by a screen or to provide testimony in video links has been introduced. The Government will ensure appropriate application of the law.

65. The police will take the following measures to deal with victims of child prostitution, to give consideration to children's characteristics and to try to ease the mental burden of child victims who suffer mental anguish by taking into account the nature of the crime.

- Female officers have been appointed to deal specifically with victims of child prostitution;

- The police consult experts over the mental and physical condition of child victims whenever necessary;

- Female officers should be present when child victims are questioned, taking into consideration the nature of the crime and the victims' mental condition;

- Prior to or during questioning, juvenile consultants and guidance officials who have expertise on the mental, physiological and other conditions of children or can deal skilfully with children should provide counselling to child victims;

- Care is taken not to question the victims for a long time or frequently;

- Depending on the situation, police officials will visit the home of the victims or other places to question child victims.

66. The police are training officers to make sure that they will pay close attention to the conditions of child victims in questioning them. The police will continue such training.

2. Counselling for child victims

67. Child guidance centres provide mental care - such as counselling - for child victims who have suffered mental anguish, in response to consultations and reports from the victims themselves, their parents and relevant organizations. The Government will continue efforts to improve counselling services at child guidance centres.

3. Relief and protection of child victims

68. Child guidance centres will promote exchange of information with the police and other relevant organizations to promptly provide psychological care for child victims.

69. Child guidance centres will admit child victims into child welfare facilities if necessary, taking into consideration their mental and physical condition, family situation and living environment, and provide them with counselling, in efforts to protect child victims properly.

70. The Government will compile a manual on how to deal with child victims, so that child guidance centres will protect them properly. In accordance with instructions in the manual, child guidance centres will continue efforts to protect child victims properly.

71. The human rights organs of the Ministry of Justice have established counselling offices on children's rights and "Dial 110" on children's rights at Legal Affairs Bureaux and District Legal Affairs Bureaux, so that children can easily consult counsellors without hesitation. The organs have appointed Volunteers for Children's Rights Protection who deal specially with problems involving children's rights. They provide counselling services concerning children's rights. The organs will continue to improve the system of counselling on the rights of the child.

72. The organs notify relevant organizations if they find infringements of the rights of the child and deem that relief measures for the victims should be taken through judicial and administrative procedures. They also introduce the Legal Aid Association to the victims, and provide legal counselling and other appropriate relief measures that they deem necessary. The organs will continue these efforts.

73. The organs have investigated and dealt with specific cases of human rights infringements and have been engaged in activities aimed at raising public awareness of respect for human rights in order to protect and promote not only the rights of the child but also all human rights. In order to develop these measures further, the Council for Human Rights Promotion, which has been established in the Ministry of Justice, is discussing the basic policy of these measures. The council submitted an interim report on relief measures for victims of human rights infringements

in November 2000. The report underscores the need to improve and develop the functions of organizations that extend relief to victims of human rights infringements, referring to the Paris principles.

74. It is necessary for the Organs to cooperate with child guidance centres in protecting victims of child abuse. Therefore, Legal Affairs Bureaux and District Legal Affairs Bureaux in the Ministry of Justice actively participate in the network of relevant organizations - with child guidance centres as its core - and cooperate with these organizations and relevant NGOs to protect the victims of child abuse

75. The police, in cooperation with child guidance centres and other relevant organizations, have been providing assistance to child victims whenever necessary, such as providing counselling to child victims and advice and instructions to their parents. The police will continue to implement appropriate measures to that end.

76. Under the Child Abuse Prevention Law that came into force in November 2000, the Government is making efforts to protect child victims, including those who suffer sexual abuse, by finding and treating the victims as soon as possible. It will step up efforts to that end in cooperation with relevant organizations and NGOs.

77. Japan will consider early ratification of the Convention concerning the Prohibition and Immediate Action for the Worst Forms of Child Labour (ILO Convention No. 182).

4. Protection of foreign child victims

78. The Government will take appropriate measures to protect foreign child victims in Japan, regardless of their nationality, when it deems that they need to be protected under the Child Welfare Law.

79. The Government will support projects aimed at rehabilitating child victims of commercial sexual exploitation through financial contributions to UNICEF.

80. The Government will utilize grass-root assistance and the subsidy system for NGO projects to support NGOs that provide assistance for occupational training of child victims overseas and welfare facilities for such children.

81. Japan is considering contributing 200,000 dollars from the Trust Fund for Human Security to the Centre for International Crime Prevention (CICP) Global Programme against Trafficking in Human Beings in the Philippines. It will continue actively to support CICP programmes aimed at supporting child victims of commercial sexual exploitation.

E. Child trafficking

82. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime - along with the above-mentioned convention - is aimed at establishing a universal and effective legal framework for promoting cooperation in preventing and combating trafficking in

persons, including women and children of a transborder nature and for protecting victims of trafficking. In particular, it obliges States parties to criminalize the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation, including prostitution or other forms of sexual exploitation, forced labour or services. The scope of criminalization is wider than that for adults and accordingly the Protocol provides for greater protection of children.

83. Japan signed the Convention on 12 December 2000 and will proceed to prepare for its ratification as soon as possible, including through the examination of necessary domestic legal measures. The Government will also undertake the necessary examination of the Protocol, bearing in mind its purpose, with respect to such matters as its content and consistency with domestic legislation. As to specific domestic measures that have relevance to the content of the Protocol, see the description of individual measures.

F. Child participation

84. Young people will attend the Second World Congress Against Commercial Sexual Exploitation of Children, to be held in December 2001. The Government will promote the participation of children in efforts to prevent and combat the commercial sexual exploitation of children by giving youths opportunities to express their opinions during discussions at the Congress and related events as far as possible, while cooperating with NGOs.

Russian Federation

[Original: Russian]
[25 January 2001]

1. Russian legislation contains a whole range of measures dealing with these issues. There is a chapter in the Russian Criminal Code, "Crimes against the Family and Minors", making offences against minors criminal acts. Under article 152, paragraph 1, of the Code, trade in children (buying and selling, i.e. transfer of a minor by its parents or other persons looking after it to a third party for monetary reward) and other transactions involving the transfer and taking possession of a minor attract punishment ranging from compulsory labour to up to five years' deprivation of liberty.

2. The same acts, committed repeatedly; against two or more minors; by a group of persons by prior collusion, or by an organized group; by an individual taking advantage of his or her official position; when the minor is illegally transported abroad or returned from abroad; committed for the purpose of enticing the minor into crime or other antisocial activities; or committed for the purpose of removing from the minor organs or tissue for transplanting, are punishable by between 3 and 10 years' deprivation of liberty (art. 152, para. 2). If the same acts inadvertently result in the death of the minor or other grave consequences, they are punishable by between 5 and 15 years' deprivation of liberty (art. 152, para. 3).

3. On 12 December 2000 the Russian Federation signed the United Nations Convention against Transnational Organized Crime and the supplementary Protocol to Prevent, Suppress and

Punish Trafficking in Persons, Especially Women and Children. The signature and eventual ratification of these agreements will make for further improvements in Russian legislation protecting the rights of minors.

4. Article 151 of the Criminal Code makes the enticement of children into prostitution a crime. Those guilty of the offence specified in paragraph 1 of the article, i.e. enticement of a minor into the systematic consumption of alcoholic beverages or narcotic substances or into prostitution, vagrancy or begging, are liable to a range of penalties extending from compulsory labour to up to four years' deprivation of liberty.

5. The same act committed by a parent, teacher or other person legally responsible for the child's upbringing is punishable by up to three years' limitation of freedom, four to six months' rigorous imprisonment, or up to five years' deprivation of liberty, which may be accompanied by deprivation of the right to hold particular jobs or engage in particular activities for up to three years (art. 151, para. 2)

6. When committed repeatedly or accompanied by the threat or use of force, the same act is punishable by up to six years' deprivation of liberty (art. 152, para. 1). The Ministry of Justice has just completed a bill to amend the Criminal Code of the Russian Federation and the Code of Criminal Procedure of the RSFSR. Under the bill, the Criminal Code will be amended to make offences connected with the slave trade, the enticement of minors into prostitution and the illegal distribution of pornographic material to minors criminal acts. As the penalties for crimes against minors have increased, larger numbers of such crimes have begun to come to light. The organs of law enforcement have discovered instances of organized child prostitution and operations by groups sexually exploiting children, including the production and distribution of pornography.

7. A total of 194 criminal investigations were launched in Russia in 1999 for sexual relations and other acts of a sexual nature with persons under the age of 16 (art. 134 of the Criminal Code); 884 for acts of perversion (art. 135); 853 for enticement of minors into antisocial activities (art. 151), 28 for trade in minors (art. 152); 41 for enticement into prostitution (art. 240); and 295 for illegal distribution of pornographic material and objects (art. 242). The international computer network - the Internet - has recently started to be used for criminal purposes. One factor in the growth of such offences is the absence of any definition of "child prostitution" or "child pornography" in Russian legislation: accordingly, the Office of the Procurator-General is currently working on a proposal to amend the Criminal Code so as to help deal with the problem and satisfy the requirements of the Convention on the Rights of the Child and the Optional Protocol thereto on the Sale of Children, Child Prostitution and Child Pornography.

8. Special units to combat vice have been set up since 1996 within the interior departments of a number of Russian regions by decision of the local administrations. Such units are currently in operation in St Petersburg, Omsk and Chita and have been gathering practical experience with the application of current legislation to prevent and punish vice

9. There are 334 social assistance centres for families and children at work trying to avert difficult living situations. They also offer comprehensive assistance to families and family members who have suffered violence and provide psychological rehabilitation.

10. The construction of a system of special-purpose institutions for minors requiring social rehabilitation has been under way in the Russian Federation since 1992. More than 700 institutions have been created over this period: shelters for children and adolescents, rehabilitation centres for minors, and assistance centres for children left without parental care. They operate on the following principles:

(i) Children in straitened circumstances are admitted round-the-clock and provided with assistance free of charge;

(ii) Any child is entitled to seek help on its own, without the intercession of an adult;

(iii) Every family is entitled to skilled advice and support.

Altogether some 249,000 children, victims of violence and others, were given skilled, timely aid over the course of 1999. Every child, regardless of its parents' social status, was given the opportunity to deal with its problem with the help of the experts at the institutions.

11. The practical educational psychology service, which operates in general schools and other institutions within the educational system, has an important role to play in preventing violence against children. Psycho-pedagogical and medical-social centres for children are becoming increasingly prominent in the educational system, affording highly skilled, multidisciplinary assistance to children, parents, and practical workers at educational institutions in matters such as preventing child abandonment ("social orphanhood") and juvenile delinquency, and helping to settle conflicts in the school and family environment. On 1 January 2000 the Russian educational system incorporated over 450 rehabilitation centres of various kinds. Moscow, for example, has a special psychological, medical and social facility, the Ozone Centre, looking after children who have suffered ill-treatment and violence.

12. The educational authorities and teaching institutions also help, within their terms of reference, to design and carry out measures to identify families and children at risk, parents who abuse their children and parents who fail in their duty of care.

13. Article 56 of the Family Code states that a child is entitled to protection of its rights and legitimate interests, including protection from abuse by its parents (or persons in loco parentis). Officials and other citizens who hear word of a threat to a child's life or health or violations of its rights and legitimate interests are required to notify the care authorities responsible for the district where the child actually lives. On being so notified, the care authorities are required to take such steps as are necessary to protect the child's rights and legitimate interests.

14. Under Russian legislation, the care authorities can petition the courts to have parents' parental rights set aside or restricted. In the event of an immediate threat to a child's life or health they are entitled by law to take the child away from its parents or other carers. If they do so they must immediately notify the Procurator's Office and arrange temporary accommodation for the child: they then have seven days' grace to petition the courts for a waiver or restriction of parental rights (art. 77 of the Family Code).

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Sub-Commission on the Promotion and
Protection of Human Rights
Fifty-third session
Item 1 of the provisional agenda

ORGANIZATION OF WORK

Note by the Secretariat

1. At its forty-ninth session, the Sub-Commission, in its decision 1997/113, decided not to adopt resolutions or decisions henceforth under its agenda item entitled "Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)" in respect of human rights situations which the Commission on Human Rights was considering under the public procedures for dealing with human rights violations.

2. In its resolution 2001/60, entitled "Work of the Sub-Commission on the Promotion and Protection of Human Rights", the Commission on Human Rights reiterated:

(a) Its decision that the Sub-Commission should not adopt country-specific resolutions and, in negotiating and adopting thematic resolutions, should refrain from including references to specific countries; and

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(b) That the Sub-Commission should continue to be able to debate country situations not being dealt with in the Commission, as well as urgent matters involving serious violations of human rights in any country, and that its discussions would be reflected in the summary records of its debates, which should continue to be forwarded to the Commission.

3. In order to assist the Sub-Commission, the Secretariat has prepared a list of the human rights situations currently under consideration by the Commission under public procedures for dealing with human rights violations (annex I) and a list of country situations currently being considered by the Commission under the agenda items entitled "Organization of the work of the session", "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and "Advisory services and technical cooperation in the field of human rights" (annex II).

Annex I

HUMAN RIGHTS SITUATIONS BEING CONSIDERED BY THE COMMISSION ON HUMAN RIGHTS UNDER PUBLIC PROCEDURES FOR DEALING WITH HUMAN RIGHTS VIOLATIONS

	Commission on Human Rights resolution or decision
Afghanistan	Resolution 2001/13
Bosnia and Herzegovina and the Federal Republic of Yugoslavia	Resolution 2001/12
Burundi	Resolution 2001/21
Cuba	Resolution 2001/16
Cyprus	Decision 2001/102
Democratic Republic of the Congo	Resolution 2001/19
East Timor	Chairman's statement of 20 April 2001
Equatorial Guinea	Resolution 2001/22
Israel (under procedures relating to the occupied Arab territories, including Palestine and the occupied Syrian Golan)	Resolutions 2001/6, 2001/7, 2001/8, 2001/10
Islamic Republic of Iran	Resolution 2001/17
Iraq	Resolution 2001/14
Myanmar	Resolution 2001/15
Republic of Chechnya of the Russian Federation	Resolution 2001/24
Sierra Leone	Resolution 2001/20
Sudan	Resolution 2001/18

Annex II

COUNTRY SITUATIONS BEING CONSIDERED BY THE COMMISSION UNDER THE AGENDA ITEMS ENTITLED "ORGANIZATION OF THE WORK OF THE SESSION", "THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION" AND "ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS"

Agenda item: "Organization of the work of the session"

Colombia	Chairman's statement of 25 April 2001

Agenda item: "The right to self-determination and its application to peoples under colonial or alien domination or foreign occupation"

Occupied Palestine	Resolution 2001/2
Western Sahara	Resolution 2001/1

Agenda item: "Advisory services and technical cooperation in the field of human rights"

Cambodia	Resolution 2001/82
Haiti	Chairman's statement of 25 April 2001
Somalia	Resolution 2001/81